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OFFICE OF STRATEGIC SERVICES
Research and Analysis Branch

R & A 3114.2

NAZI PLANS FOR DOMINATING GERMANY AND EUROPE

DOMESTIC CRIMES

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INTRODUCTION

The following paper consists of two parts. Part I discusses the criminal responsibility of the Nazis for their violations of Domestic German law. Part II concerns the violations themselves -- the suppression of labor organizations and political parties, the muzzling of the press, the illegal passage of enabling legislation, etc.

The principal problem which the Part I confronts and attempts to solve is the expected plea by the Nazi Defense that the acts of which the prisoners are accused were in fact authorized by the laws of the Third Reich. While it would be possible to demonstrate that the Nazi regime itself was not the legal successor to the Weimar Republic, the Nazis could fall back upon the claim that as a frankly revolutionary government its constitutionality rested on its long and uncontested exercise of power. This it is suggested, can only be countered by insistence upon the traditional view that a government's constitutionality depends upon how representative it is of its people and how wide an allegiance it is able to evoke from its citizenry.

On the other hand, it is pointed out, even after the Third Reich's unconstitutionality is established, it will not necessarily be wise to consider retroactively invalid all of its legislation. Rather, the principle of"selective retroactivity"

should be applied, and those policy measures, amnesties, and other laws especially protecting Nazis from the consequences of their crimes be specifically rescinded. That there are ample precedents for such a practice can quickly be demonstrated. It will be necessary, in any event, to go beyond this invalidation of laws: one must also reject those Nazi interpretations of their own laws which, if accepted, would render the Party virtually "beyond the law". This is the more important in that the Nazis -- as far as the letter of the law was concerned -- never legally sanctioned the great majority of the types of violence in which they engaged and, consequently, can without difficulty be brought to book for them, once their immunity is removed.

In Part II it is demonstrated how -- and under what pretexts -- the Nazis went about the organization of their system of terror. The police were converted into an instrument of repression; the opposition parties were driven underground; the elections were rigged; and the trade unions were taken over. In this the Nazis worked through two types of agencies -- the "legal terror", which operated by way of the courts and the application of Nazi laws, and the police and organizational terror, which applied force directly. Responsibility for this methodical violence lies with various agencies, of which the most culpable are the Ministry of Justice, the Ministry of Interior, the top Party authorities, and the courts.

"Summary of R & A Study on Domestic Crimes Parts 1 and 2 as Prepared by a Member of the Prosecution Review Board

In Part 1 of the paper which covers The Legal Basis of Criminality, the point is made that the Nazis in the beginning declared, and attempted to buttress the declaration, that, constitutional processes were observed but the only purpose of the declaration was to hasten the rise to power and fix the wavering loyalty of certain national groups; officially, the development of National Socialism was declared to be revolutionary in character.

Whatever the position taken on the constitutionality of the Nazi régime unless the laws and acts thereunder be viewed as evidence in the Master Plan, as suggested in the introduction, the problem remains that certain laws must be rescinded. A norm for rescission is provided in the principle of "selective retroactivity". France and Italy provide examples of the exercise of this principle although in neither case was any vigorous attempt made to prove the defunct regime illegal or unconstitutional.

Two cautionary notes are indicated as a guide in applying the laws which are allowed to stand after the exercise of the principle of retroactivity. Firstly, a law may be innocent in its statutory or decretal form but vicious in its interpretation. All Nazi interpretations of legislation which is allowed to remain in force, must therefore be re-examined. This is the more important because no Nazi law has ever expressly withdrawn the protection afforded by law against attack on the life or physical safety of citizens. Secondly, the criminal laws allowed to stand may be invoked only against those offenders who are not protected by "white-washing" legislation or interpretation.

Part 1 of the paper is concluded by pointing out the loop-holes arising out of the Statute of Limitations and Nazi amnesties and remedies are suggested.

Part 2 (The Organization of Terrorism) is divided into various topics and may be summarized as follows:

(a) The Rise of the System

This section of Part 2 shows the Nazis professed that they adhered to legal method. This profession, however, was not consistent with their seizure of power and their activities thereafter. The threat of Communism was used as justification for the aggressive activity of the party against competitors and opponents. For example, the Communist party headquarters in Berlin were occupied by the police. The police were reorganized to facilitate its use in terrorism and were more heavily armed. The private Nazi army consisting of the SA, SS, and the Stalhelm were not only largely exempt from police restraint, but were ultimately elevated to the rank of auxiliary police. The Reichstag fire of February 1933 served as a pretext for harassment of political enemies such as arrest of 4,000 Communist party functionaries. A cabinet decree of February 4, 1933 for the benefit of the Nazis gave the police wide powers to prohibit political meetings and to seize and suspend newspapers. It appears that the exceptional measures against the Communists, The Social Democratic, and the Center Party were part of a plan to eliminate opposition in the national elections tobe held (March 5, 1933).

Legalization for the policy of terror to some extent was by the Decree of the Reichpresident issued immediately after the Reichstag fire suspending the most important fundamental rights guaranteed by the Weimar constitution. It also gave the central government the right to take over the functions of state governments which would not comply with the orders of the central government. Thereafter concentration camps were established and among the thousands placed therein were innocent people even according to Goering.

Failing to obtain a majority, much less a necessary two-thirds majority, for constitutional changes by the March 5, 1933 elections, the Nazis solved the difficulty by barring the Communists from attendance upon the Reichstag. Thereafter the Nazis started to take over power from the non-nationalist state governments, occupying the state government buildings with SA troops where necessary.

(b) Suppression of Trade Unions, Political Parties and Other Organizations.

This section of Part 2 describes in detail the laws and decrees early in 1933 and the acts of the Nazis pursuant thereto which resulted in obliteration of trade unions and confiscation of their funds. Political parties other than the Nazi parties were also eliminated and by sundry decrees any kind of an organization hostile to or in competition with the Nazis could be legally eliminated by seizure and confiscation of property.

Apparently thousands of voluntary organizations and associations were forcibly brought into line or simply shut down or their property confiscated.

(c) Legalized Forms of Political Terror

The Nazi terror program was put into effect by use of the courts, application of Nazi legislation, and by police and organizational terror applying force and violence directly to political enemies without the intervention of legal process. Details as to the handling of political prisoners by the Gestapo, use of concentration camps, etc. are given, for example:

> Political prisoners who had served a sentence or who had been acquitted by the court were nevertheless put into concentration camps for "educational" purposes. Any secret police official as well as any concentration camp officer can testify to this practice. Moreover the concentration camp files of individual prisoners will contain material on this point. The most famous case in point was that of Martin Niemoeller.

The use of terror against so called political enemies was augmented by increasing the penalties and the creation of new laws and offenses, some punishable by death. The laws covered such offenses as making disrespectful remarks about the regime and elaboration and expansion of the law of treason including certain remote and preparatory acts thereto. After the war began new legislation was introduced including a decree on "special wartime crimes" which bore the date 17 August 1938 but was published only after the war began in September 1939.

It appears that whereas the pre-Nazi regime made three crimes only punishable by death under Nazi law some forty-four crimes were punishable by the death penalty. The said forty-four crimes are listed and identified.

In addition to the foregoing, the Nazis changed the laws so as to impose the same penalty for attempt, incitement, volunteering, conspiracy and participation as accessory as for the substantive offenses; they also removed the exemption from capital punishment of juveniles between the ages of fourteen and eighteen.

In aid of the general legislative program the Nazis: Deprived victims of terrorism of any legal protection; passed amnesty laws preventing courts and prosecutors from handling crimes committed by Nazis; issued the sovereign right to terminate pending legal proceedings by fiat; and where Nazi authorities contemplated murder, the murder was legalized by using blanks signed by Hitler or Goering renouncing the government's right to order inquiry and bring the guilty to trial.

(d) <u>The Responsibility of Various Agencies</u>

The methods of oppression were synchronized throughout the Reich through the Reich Minister (See Reich Minister Heinrich Lammers deposition Seventh Army Interrogation Center U. S. Army APO 358 Ref. No. SZ 1/C/32, 29 May 1945.

It appears that the following official units of the government also participated actively in the terroristic regime:

1. The Minister of Justice which, among other things, could order the state attorneys either to prosecute or not. The following persons are named as leading figures connected with this ministry: Franz Gürtner (died 1941), Franz Schlegelberger and George Thierack--from 1943 to the end of the regime, Dr. Roland Freisler and H. Klemm who were Secretaries of State in the Ministry, E. Schafer, headed the Section on Criminal Legislation, Dr. Vollmer, headed the Section on Criminal Prosecution, Procedure, and Prisons.
2. Minister of Interior -- this was chiefly responsible for the emergency decree of 28 February 1933 and enabling act of 24 March 1933 by which Nazi rule was substituted for legislative processes. Those taking a leading part in this ministry were Dr. Wilhelm Frick up to 1943, Dr. Wilhelm Stuckart, Dr. Hans Pfundesner, Dr. Werner Hoche. The ministry took the lead in suppression of organizations and confiscation of assets.
3. Highest Party Authorities -- it appears that officials of the Nazi parties frequently interfered with the administration of criminal justice. An order of October 1944 directed against this practice requires party members to proceed through the party chancellery instead of having direct negotiations with court.

4. The Courts -- The Nazi courts having jurisdiction over political crimes were:

(a) People's Courts whose jurisdiction was several times extended and which used three members appointed by Hitler from the SS and party ranks in each section. (The activities of the peoples' courts have been described in PW interrogations 4208, 4373, 4419 by a judge of the Wurzburg district court who was a member of the Supreme Reich Attorney's Staff in the People's Court until 1944).

(b) Appeal Courts and Attorney General Courts

(c) Special Courts

(d) The Hauptamt SS Courts

(e) The Military Courts -- It appears that the members of the Supreme Military Tribunal disregarded the most elementary rights of defendants. (CID XL 9277 and 9278 contain a report of 29 April 1945 on the functioning of the Supreme Military Tribunal. The President of the Supreme Military Tribunal was Admiral Bastian, and in the last months General Von Scheele; the Chief Prosecuting Attorney was Colonel Kraell; the Presidents of the different sections were General Barwinski, General Rischer, General Ernst, General Neumann, Admiral Harpst, General Hoffmann, and General Schmautzer.)

(f) Army Central Court to which in 1944 most of the functions of the military courts were transferred.

(e) The Problem of Statistics and Records

It appears that adequate statistical information to give a picture of the results of terrorism 1933 to 1945 is not presently available. Political murders are classified as follows and in some instances names of victims are given. However, the evidence or details of the particular "murders" are not presented:

a. Political opponents

b. Members of Religious Opposition Groups

c. Jews and Gypsies

d. Persons killed out of personal revenge (Von Kahr)

e. Persons killed on account of special knowledge of facts which had to be kept secret in the interests of National Socialists (Rall)

f. Persons killed as a result of mistaken identity (Willi Schmidt)

A point is made that German criminal statistics were published until 1939 but that they did not cover the People's Court which handled so many political crimes nor the SS police and Military Courts. To illustrate to some extent the number of persons suffering the death penalty, an article published by Georg Thierack on 23 August 1944 is cited. The article gives figures of the growth of number of death sentences during 1940 - 1943. Apparently the figures covered sentences by the Peoples" Courts, but not the military and SS courts. The compilation therein shows that the number of death sentences rose from 926 in 1940 to 5,336 in 1943.

Analysis of the number of death sentences for 1943 shows that political offenses figured largely.

With respect to concentration camp records the following statement appears:

> Files and statistics concerning each case of an internment in a concentration camp were kept in the Central Registry of the Central Gestapo Office (which was part of the Reich Main Security Office). In each case of an internment order, the original of the order, made in the Gestapo Office, was sent to the respective camp commander, while the Office retained a copy. Thus, in addition to the files in the central Gestapo Office, files concerning each camp inmate should also be found in the various concentration camps concerned. An exception to this rule is the case of the mass deportation, internment, and extermination of Jews. In these

cases, no records were kept about the individual persons in the central agency, nor were those registered who were killed immediately upon arrival in an extermination camp.

It is noted that no records are thought to be in existence relating to the arrests, murders, etc. carried through by organizations and individuals of the Nazi party as distinct from state authorities.

I. LEGAL BASIS OF CRIMINALITY

If Germans are to be made responsible for offenses committed in Germany against German citizens, the question arises as to which body of law should be considered applicable. From 1933 to 1945 Nazi law was the law of Germany. Should it form the basis for the indictments, should the defendants be allowed to invoke it in their favor, or should the court refuse to recognize it at all?

A. Is the Nazi Regime Constitutional?

The position might be taken that none of the legal acts of the Nazi government are valid, since the regime itself was not constitutionally established, that is, that when it was formed the constitutional rules of the Weimar Constitution were disregarded. The National Socialist regime has, of course, insisted that it did come into power according to the rules of the Weimar constitution, that Hitler was called to the office of Reich Chancellor according to the forms of the Weimar Constitution, and, that his popular mandate was confirmed by the election of 1 March 1933. Furthermore, National Socialism has asserted that the Third

Reich's legislative activity, as well as the whole framework of its new constitutional organization, rest on a duly enacted enabling act.[1] This enabling act of 24 March 1933 was at first restricted to four years, and then extended three times, twice by the Reichstag for a definite period,[2] and the last time by an edict of the Führer for an indefinite period.[3]

This claim of the Nazis, however, is scarcely tenable. First, the Reichstag which voted the enabling act did so without the participation of the eighty-one members of the Communist Party, who had been forcibly prevented from taking their seats.[4] Moreover, the two-thirds majority necessary for the voting of the enabling act was reached only through heavy extra-parliamentary pressure in the form of threats on the Center Party. In addition, the Government did not conform to the terms of the enabling act, which had restricted its lifetime to that of the current Reich government - - the Nationalist-Nazi coalition. With the departure from the cabinet of Alfred Hugenberg, leader of the Nationalist Party, on 29 June 1933, the legal basis for the enabling act ceased

1. Statute concerning the ending of the emergency of people and Reich Rgbl. I, 141.
2. Statute of 30 January 1937, Rgbl. I, 105; statute of 30 Jan. 1939 Rgbl. I, 95.
3. Leader edict of 10 March 1943, Rgbl. I 295.
4. Preliminary statute for the "Gleichschaltung" of the states with the Reich, Par. 10, 1 of 31 March 1933 Rgbl. I, 153. These members had been arrested or forced to flee.

to exist.[1]

If the Nazi regime's claim to constitutionality, then, rested only on its having preserved the constitutional forms of the Weimar Republic, its plea would appear more than doubtful. In fact, however, it bases its case on quite different grounds. The official utterances of Nazi politicians as well as of Nazi constitutional lawyers stress the fact that the National Socialist regime was a revolutionary one.[2] Formal continuity with the Weimar Constitution was used merely as a ruse to facilitate the Nazis' rise to power, assuring the sometimes questionable loyalty of the military, judicial, and technical groups. The regime's real claim to constitutionality rests on its uncontested exercise of power for a prolonged period. But such an interpretation should conform to the traditional view,[3] which makes the constitutionality of a government dependent on its character as representative of the people and its ability to command the loyalty of the citizenry, rather than on

1. See the semi-official report of Fritz Poetzsh-Heffter in Jahrbuch des Offentlichen Rechts (22) 1935 p. 63, which admits that this question was discussed in various circles, but then abruptly declares that these considerations concerning the doubts of the constitutionality are wrong.
2. Whereas the official manifestations of the Hitler government during the first weeks emphasized for strategic reasons more the idea of the continuity of the old and new Germany, later public utterances took pains to insist on the revolutionary character of the new regime. See, for example, the speeches of Hitler and the official circular of Frick, Minister of Interior, reprinted in Jahrbuch des Offentlichen Rechts, Vol. 22, 1935, p. 24
3. Hackworth: Digest of International Law I: 178-185

its having originated in conformity with the constitutional rules of the preceding regime.[1]

If it were concluded that the Nazi regime was established by constitutional processes and operated within the constitutional framework, all laws and orders under it would remain valid. If, on the other hand, it were decided that the regime has been unconstitutional, all its legal acts would be retroactively invalidated. As the Nazi regime lasted over thirteen years and as a great body of legislation was introduced during this period, a great number of legal acts and transactions would now be open to challenge.

B. Precedents Dealing with Retroactive Revision of the Legislation of a Defunct Regime.

Such radical conclusions have, however, rarely been drawn in comparable situations in history. The practice, although never uniform and governed by political rather than legal considerations, has been to adopt a kind of "selective retroactivity". In order to preserve the essential elements of social stability, it has shown a tendency to leave undisturbed legislative, administrative,

1. The ability to command obedience and to overcome resistance has been the test accepted by the commentators on the Weimar Constitution as the source of a new constitutional legality. See Anschütz: Verfassung des deutschen Reichs, 3rd ed. 1930 Einl. II, who emphasized the revolutionary origin of the Weimar Constitution.

and judicial acts pertaining to the private affairs of the citizens, concentrating instead on the political acts of the former regime. This is strongly apparent in the decisions of the Supreme Court of the United States dealing with the Confederate Legislation. It ruled that acts necessary to peace and good order among citizens -- such as acts sanctioning and protecting marriage and domestic relations, governing the course of descents, regulating the conveyance and transfer of property, real and personal, and providing remedies for injuries to persons and estates, and other acts which would be valid when emanating from a lawful government -- must be regarded in general as valid when preceding from an actual, though unlawful, government; but that acts in furtherance or support of rebellion against the United States or intended to defeat the just rights of citizens, and other acts of like nature, must in general, be regarded as invalid and void.[1]

An analogous example presents itself in international law, in which the question has often arisen: What recognition should a returning sovereign give to the acts of the occupant? There exists no uniformity of opinion on this problem.[2] Yet, a tendency is noticeable to recognize only those acts which would find justification in the international law of occupation. Acts of the occupant in

1. Texas v. White 7 Wallace 700 (1868)
2. Hackworth, ap. cit. Vol. V, p. 653.

regard to technical matters and to strictly private relations have generally a better chance of finding recognition than acts having a political connotation, however small it may be.

This situation differs somewhat from the one we have to deal with insofar as international law offers certain rules by which the validity of occupation acts can be measured.[1] Whereas there exists, unfortunately, no such yardstick in positive law to apply to the acts of a native sovereign. His constitutional powers are subject only to those limitations which he is himself willing to recognize or to establish. But, in spite of this difference, it remains significant that both the returning sovereign and the succeeding regime tend to differentiate between, on the one hand, purely technical acts and acts regulating relations between private parties, and, on the other hand, acts carrying political implications.

This principle finds contemporary illustration in the Italian decree on "Sanctions against Fascism" of 27 July 1944.[2] This, it is true, with a sweeping gesture abolishes retroactively all criminal laws "passed for the protection of Fascist institutions and political organs." In establishing the criminal responsibility of members of the Fascist government and hierarchy for the abrogation of political liberties and constitutional guarantees and for the creation of the

1. E. H. Feilchenfeld: The International Economic Law of Belligerent Occupation. Washington, 1942, par. 490-502.
2. Decreto Legislativo Luogotenenziale #159 (July 27, 1944)

Fascist regime, it denies implicitly that the Fascist regime ever exercised constitutional powers. But whereas the decree orders the application of certain paragraphs of the earlier penal code to some political acts, it does not abrogate the new Fascist penal code en bloc. In other words, although treating the Fascist regime as a usurpation of power, it stops short of assuming the invalidity of all its legal acts and sticks to the principle we have noted: "selective retroactivity."

France, too, affords an example of this differentiation. The ordinance of 9 April 1944[1] "Concerning the Re-establishment of Republican Legality" starts by branding the constitutional legislation and executive acts of the Vichy regime as illegal. But this illegality is laid down only "in principle". Article Seven explicitly states that for "considerations d'interet pratique" all those acts of the de facto government, the invalidity of which have not been expressly declared in the ordinance, are maintained. And even insofar as the small number of abrogated ordinances is concerned the invalidation is not, in the majority of cases, given retroactive force. Only in thirty-nine cases, most of them in the field of labor and propaganda, was retroactive invalidation ordered.[2]

1. Ordonnance de 9 Aout 1944 (Retablissement de la Legalite Republicaine), Journal Officiel #65, Aug. 15, 1944, p. 7.
2. In the trials which have taken place so far, of French military figures, officials, and judges, the Court of Justice has consistently evaded the issue of the validity or invalidity of the Vichy legislation. It has invariably based its decision on the concept of treason, and conveying intelligence to the enemy, rather than on constitutional grounds.

In Denmark, the criminal code has just been retroactively amended as of 9 April 1940; membership in the various German corps and other acts of treason may be punished by death and imprisonment. The law, the lifetime of which is restricted to one year, thus introduces the death penalty, hitherto unknown in Danish law, to crimes committed during the occupation.[1]

C. The Use of Existing Legislation for the Prosecution of War Criminals.

If German laws still on the books at the time of the Nazi collapse are to be used as a basis for criminal prosecution, it will be necessary first to exclude certain specific Nazi interpretations of them.

According to the Nazi doctrine, for example, the Party and its organizations constituted independent bodies fully equal to and sometimes set above the state apparatus. They were not subject to the orders of the state and insofar as legal rules governing their inter-relationship existed, they only concerned a few areas of possible conflict:[2] they did not establish or predicate the application of state law to any kind of Party activities.

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1. Situation Report: Western Europe, 9 June 1945
2. Decree of Dec. 28, 1939 (1940 RGBL. I, 45). H. P. Ipsen, Politik und Justiz, pp. 240 et seq. Hamburg, 1937. A. Lingg, Die Verwaltung der NSDAP, pp. 78 et seq. Munich, 1940.

In other words, the Party lived according to its own laws. Its concepts were different from the prevailing concepts applied to actions of ordinary citizens. For this reason, special jurisdictions had to be instituted for certain categories and actions of Party members, and care was taken to exclude such acts from adjudication by the regular law courts.[1] The Party, indeed, exercised political power at the same level as the state organs.[2] The Party organs attributed to themselves the same position in the fight against internal enemies as the army did in regard to external enemies in times of war. They assumed not only the right, but the duty, of destruction.

Clearly, if such a doctrine were recognized, many if not most, of the offenses committed by the Nazis would enjoy immunity and the rules of the criminal law would be inoperative, for such acts would be covered by the unwritten law arising out of the National Socialist philosophy. Such an interpretation would obviously be quite unacceptable, the more so because of the divergencies of treatment it

1. Decree of 1 Nov. 1939, 1940 RGBL I-2107
   Decree of 1 Dec. 1933. 1933 RGBL I-1016
   Decree of 17 Oct. 1939. 1940 RGBL I-2293
   Decree of 17 Apr. 1940. 1940 RGBL I-659
2. A. Lingg: Die Verwaltung der Nationalsozialitsischen Deutsche Arbeiterpartei, Munich 1940. p. 28.

would necessitate between Nazis who committed offenses in connection with internal German politics and Nazis active in foreign territory or occupied with the affairs of foreigners in Germany, who could be punished according to international law.

The following should therefore be disregarded in the interpretation of German laws by the court:

a. General National Socialist concepts calling for the application of the regular law only to acts of the ordinary citizen, and reserving a separate system of rules, governing certain special functionaires of the Party.[1]

b. The preamble of National Socialist laws, which to a large extent took the place of actual legislative intent.

c. Clauses inserted into a great number of laws giving an interpretation in conformity with the National Socialist philosophy.

The necessity of stripping away the Nazi interpretation of their own laws can be seen even more easily when it is understood that no Nazi legislation has ever expressly abrogated the protection granted by the criminal law against attacks on the life and bodily integrity of any individual. For instance, the police decree of July 1,

1. Civil Affairs Handbook - Germany, Sec. 3 - Legal Affairs, Army Service Force Manual M356-3 (I-C).

1943[1] which shut Jews off from access to regular law courts and transferred jurisdiction in Jewish cases to the police, did not create new substantive law. It did not transfer to the Party and police organs the right to kill or inflict bodily harm on Jews. It shifted jurisdiction, but not the right to commit acts which, by the existing rules of criminal law, were considered murder or assault.

In the realm of administrative law such exemptions from judicial control were often introduced by special laws and decrees[2], while in criminal law the same result was usually reached through the inability or unwillingness of the state attorney to bring Nazi offenders to trial.

But in any case even the German constitutional writers, when developing the theory of the so-called "justizlose" Hoheitsacte (acts of the sovereign not subject to judicial review), did not pretend that the mere fact of withdrawing an action from judicial scrutiny would make it "lawful"[3].

The Nazi Government, indeed, has attempted in only one instance to justify specifically a series of political murders: after the purge of July 1934 the Fuehrer issued a special law[4] upholding the acts committed on 1 and 2 July on the grounds of the existence of an emergency. Some Nazi interpretations to the contrary, it seems fairly

1. 1943 RGBL I-372
2. CA Handbook M356-3, Sec. V C
3. H. P. Ipsen, op. cit. p. 239
4. RGBL I, 1934 p. 539

obvious that the Nazi regime would not have issued such a strange and extraordinary law if the majority of the German people had been willing to accept the theory that public authorities are free to kill their political enemies and competitors without benefit of trial. The issuance of such a law is, in fact, to be considered as confirmation of the thesis that the substantive rules of criminal law, including those pertaining to murder, were never revoked under the Nazi regime, even though they were never enforced when politically inconvenient.

A word might be said, however, concerning this "white-washing" law of July 1934 which, if valid, would erase criminal responsibility for the murders committed during the Röhm revolt. Some doubts may arise as to which of the murders were the "authorized" ones and which would come under the category of "unprivileged" murders. That not all of them were duly authorized may be concluded from the fact that the Fuehrer issued a proclamation decreeing that whoever acted without authorization would be put at the disposal of the state attorney, and in the same proclamation declared that all measures necessary to overcome the Röhm revolt had been taken during the night of 1 July 1934.[1] This assertion would seem to establish a presumption that any murders committed after that date were not duly authorized.

However that may be, such a law obviously cannot be given recognition. The merger of administrative action and

1. Frankfurter Zeitung, 4 July 1944

an individual legislative measure, the retroactive vindication of this action and the anticipation of the outcome of a judicial investigation by the elevating of crimes to the rank of lawful acts may be justifiable from the viewpoint of the National Socialist doctrine,[1] and to members of the Party and its organizations the murders may seem excusable in that the victims were bound by a special loyalty and subject to a special discipline. But any interpretation which follows normal constitutional concepts must necessarily reject such theories. A jurisdictional shift which makes the perpetrator of an act the judge of its guilt or innocence is invalid. Even if it were construed as a measure of amnesty, it would be exposed, like other Nazi amnesties, to the objection that the authorities who proclaimed it are the main beneficiaries.

While this 1934 statute would probably be invoked by the defense in connection only with the Rohm murders, the Prussian statute on the Secret State Police of 10 February 1936[2], which applied to the whole Reich, might prove of much wider importance in the strategy of the defense. By this statute the secret state police were explicitly entrusted with the task of "battling against all movements dangerous to the state."

1. Carl Schmitt, Der Fuehrer Schutzt das Recht, in Deutsche Juristenzeitung, 1934, p. 945-950.
2. 1936 Pr. G. 521 (Preussische Gesetzesammlung)

This statute has to be read in connection with the emergency decree of 28 February 1933[1] abrogating constitutional guarantees and permitting specific restrictions of personal freedom. The decree of February 1933 allows arrest and detention without trial.[2] But would both laws taken together justify willful murder and assault? Does their explicit mentioning of an officially approved aim, the fight against enemies of the state, authorize the application of means not sanctioned by the law of the land? It does not. Neither implicitly nor explicitly do these statutes legalize any means which contravene the penal code or which would be sanctioned only in a number of very narrowly defined circumstances (such as resistance to arrest or attempted fights). Such special circumstances, moreover, would have to be proven by the party invoking them, the defendant.

Support for this line of argument can be found in utterances by Dr. Best, former general counsel of the SS administration. In discussing the legal means of coercion at the disposal of the police when fulfilling their task of combatting dangerous political movements, Best described a scale of interference with personal freedom ranging from the mildest admonition to the most severe - protective custody -- mentioning restrictions of movement and forced

1. 1933 RGBL. I, - 83
2. Werner Spohr, Recht der Schutzhaft, pp. 14, 21 ff. Berlin, 1937.

domicile as intermediary weapons.[1] Since Best was speaking explicitly of legal means, it is obvious that he must have considered all other means utilized by the police as not being covered or protected by the law.

In this connection it may be worth mentioning that the German Civil Service Act of 1937[2] explicitly established the principle that any state employee was responsible for the conformity of his acts with existing law. (par. 7). He had to follow the orders of his superiors, but if it became clear to him that their execution would constitute a violation of existing criminal law, he was to defy them.[3]

No act of violence against political opponents or complicity in such an act had any sanction in criminal law. In cases of willful homicide, then, the conflict between an order by a superior and the boundaries set to official action by the criminal law can be assumed to have been clearly discernible to the individual. It can further be assumed that he acted with full knowledge that no protection would be afforded to him in German law.

1. Werner Best: "Die politische Polizei des dritten Reichs" in H. Frank: Deutsches Verwaltungsrecht, 1937 p. 424 Goering, in a Vienna speech of 26 March 1938 seems also to have subscribed to the preservation of accepted legal forms, when he claimed that "In Germany a human being is only killed if a court has sentenced him to death and the Leader confirms the sentence." Hermann Goering: Reden und Aufsaetze, Munich 1942 p. 350.
2. 1937 RGBL. 39.
3. See Goebbels speech appearing in 28 March 1944 edition of Völkischer Beobachter, and Hitler's statement admitting the right of civil disobedience, p. 122 of Mein Kampf, (Houghton Mifflin edition).

There are some borderline homicide and assault cases which may need further theoretical clarification. It is obvious that no hereditary health legislation can be evoked to justify the killing of old, sick, and helpless people in rest homes, old age homes, etc. The perpetrators of such acts, whether principals or accessories, are guilty of murder. But the question arises whether or not the "Law for the Prevention of Hereditarily Diseased Offspring" of 14 July 1933[1] could be invoked as a defense in numerous cases of medical "operations" resulting in death or permanent bodily harm to the victims. Insofar as such operations have been carried through in conformity with and are covered by the terms of this law, which restricts sterilization to nine categories of cases, the law might constitute a valid defense. But any other operations not covered by these categories -- such as operations on politically undesirable elements -- would, if resulting in death, be treated as murder or manslaughter,[2] and otherwise as an aggravated assault.[3]

D. The Necessity for Retroactive Rescission of Nazi Laws

This example of the "Law for the Prevention of Hereditarily Diseased Offspring" shows the limits to the usefulness of existing criminal legislation for the prosecution of

1. 1933 RGBL I. 529
2. 212 and 222 ST G B
3. 224 and 225 ST G B

domestic offenders. It is useful for the prosecution of criminal acts insofar as they are not protected by legislation enacted by the Nazis. It cannot be used to prosecute those responsible for the inauguration or execution of reprehensible policies, if these policies were carried through by means of duly enacted laws and decrees.

The fact that a law or decree was duly enacted does not, of course, mean that its purposes were not reprehensible. Even where, as in the case of the sterilization laws mentioned above, the ostensible aim may not seem objectionable, its actual intent becomes more clear when seen in the context of the Nazis' whole policy or when its avowed legislative aims are compared with actual administrative practices.[1] In other cases there may not even be a question that a law -- no matter how proper in form and enactment -- cannot stand.

In this latter category belongs the so-called racial legislation proper, especially the "Law for the Protection of German Blood and Honor"[2] and various decrees reducing the status of the Jews to that of mere slaves. If this legislation is to be considered void only from the day of the Military Government Proclamations, most of those responsible for the inauguration and the execution of this policy would escape punishment, so long as they had avoided direct participation in murder or assault. No state attorney or judicial official could be held criminally responsible for his share

1. "Criminal Responsibility in Health and Racial Policy of Nazi Germany" (R&A 3113, forthcoming)
2. 1935 RGBL 1146 - law of 15 Sept. 1935

in the enforcement of sanctions against "race defilement". To be sure, not all officials who participated in the enforcement of such a law will be held criminally responsible in any event. Many may be able to prove that they applied it contre-coeur, tried to use delaying tactics, or to help in other ways the victims of this legislation. Yet it remains true that as long as the law is considered valid law until it was officially rescinded, the prosecution will be unable to make out a case against the small nucleus of persons principally responsible for its being put on the statute book and enforced.

The same considerations would generally apply to the activities of members of official repressive agencies such as the People's Court,[1] the various special courts, and the Party and army jurisdictions.[2] If the laws on which their judgments and sentences rested were not to be retroactively invalidated, a prosecution could be based only on par. 336 of the German Criminal Code. According to this article, an official may be held criminally responsible if he has broken the law in favor, or to the disadvantage of, one party. Due to the almost unlimited discretion left to the court by the Nazi rules of procedure,[3] however, it would be a next to impossible task to establish an intentional disregard of procedural rules to the disadvantage of the defendant. As regards the substantive law, indeed, the

1. See Part II, this paper
2. Law of 12 May 1933, RGBL I-1264
3. See R&A paper on criminal procedure.

very Nazi judges who are to be made responsible for a policy of systematic terrorism are the ones who can most effectively pretend to have strictly adhered to the spirit as well as to the letter of the new laws. If criminal prosecution of state attorneys and members of Nazi courts is contemplated, the laws on which their main activities rested[1] will have to be voided!

If such retroactive rescission is decided upon, it can be handled in either of two ways:

a. A list can be promulgated rescinding a number of specifically enumerated laws and decrees with retroactive force.

b. The laws and decrees to be rescinded can be defined in a general way -- e.g., "all criminal laws enacted for the protection of National Socialist Domination and institutions." Interpretation as to which criminal laws and which penal provisions of other laws would come under that definition would be left to the court.

E. The Statute of Limitation

Will it be necessary to set aside temporarily the statute of limitation in order to carry through the prosecution of war criminals for the violation of domestic offenses?

1. As, for example, the famous par. 5, I, 1 of the special decree on wartime criminal law of 17 August 1938 dealing with "Undermining of the Will to Resist of the German People." (See Part II, this paper).

As it now stands, the statute of limitations operates after the lapse of 20 years in regard to offenses punishable by death or hard labor for life; after 15 years for offenses punishable by up to 10 years of hard labor; and after 10 years in the case of offenses punished by lesser sentences. (par. 67, penal code).

Due to the premature end of the Nazi regime, most major Nazi criminals will have no opportunity to benefit from this statute, especially as Nazi legislation itself has in many instances retroactively increased the scale of punishments.

However, because a few Nazis might still be able to claim immunity under this statute, it might be advisable to take advantage of the legal proviso which allows cancellation of limitations for periods in which there has been a complete breakdown of criminal justice.[1] Judicial administration under the Nazis could certainly be so characterized. A directive to the court, then, could be issued ordering that the statute be disregarded for offenses committed between 1932 and 1938. There would be no need to extend this period beyond 1938: the earliest date thereafter at which the statute would again begin to operate would be 1948; and it should certainly be possible to bring these criminals to book by then.

1. Par. 245, Code of Civ. Procedure

F. Nazi Amnesties

In sharp contrast to practices prevailing under the Weimar Republic, the Third Reich issued a great number of amnesties. Such general amnesties were issued in 1933,[1] 1934,[2] 1936,[3] 1938,[4] and at the beginning of the war in 1939.[5] They were accompanied by a number of special amnesties for the populations of newly annexed territories and by various amnesties for breaches of discipline in a great number of professions. The general amnesties cover the following offenses:

a. Minor offenses of all types covering between one to six months imprisonment and fines.

b. Minor offenses by political enemies of the regime covering defamation and similar offenses generally resulting in prison terms up to six months.

c. All types of offenses and sentences of "over-zealous" political adherents to the new regime. Whereas the 1933 and 1938 decrees (the latter insofar as acts in Austria's "Freedom fight" are concerned) give amnesty for any Nazi act, the other amnesties stop short of forgiving willful murder.

1. Presidential Amnesty Decree of 21 March 1933, RGBL I, 134.
2. Amnesty Law of 7 August 1934, RGBL. I, 769.
3. Amnesty Law of 23 April 1936, RGBL. I, 378.
4. Amnesty Law of 30 April 1938, RGBL. I, 433.
5. Fuhreredict on Amnesty of 9 September 1939, RGBL. I, 1753.

These amnesties become all the more important in that they extended not only to final sentences and pending trials, but also to cases still under investigation by police and state attorneys and cases which had not yet even come to the attention of the authorities. If the offenses in question fell before the date on which the amnesty went into effect, they were covered by it.[1]

Most Nazis under indictment can doubtless be prosecuted regardless of these Nazi amnesties. But a few of them might be able to claim immunity under the clause excusing "over-zealous adherents." In the 1934 and 1936 amnesties, it is true, this clause was qualified by a proviso that it was not to apply "if the manner of execution of their deed or their motives give proof of a depraved mentality." No such reservation, however, exists in either the 1933 or 1938 amnesties. Thus, those responsible for the Reichstag fire of 1933 might be able to invoke the amnesty of that year which excused the "overzealous." Consequently, it would be advantageous to the prosecution if the court were directed to disregard all amnesties which especially benefit "overzealous adherents."

1. In regard to numerical importance of these amnesties, see the table in Civil Affairs Handbook - III: Legal Affairs, p. 58.

PART TWO

THE ORGANIZATION OF TERRORISM

A. The Rise of the System

The Nazis have never left any doubt that once in power they would not stick to "legality." Insofar as the Nazis professed to adhere to constitutional and legal methods, their statements were for the record only. In fact, the word "legality" when used by the Nazis acquired a quite different meaning. It did not mean that their orders would keep within the constitutional framework, but that once in power they would have the right to do as they pleased. A Party newspaper put the Nazis' position very succinctly:

> It is our supreme task to save the German nation. Everything is legal which will effect the salvation of the German nation. We are legal. You are legal. Your legality means the destruction of the national opposition. But our (Nazi) legality will start at the very moment when your (Republican) legality is on the way out. At that moment we will use our legality to destroy yours.[1]

This intention of doing away with the Weimar Constitution and its guarantees of free political activity by all lawful organizations and of replacing it with the dictatorship of the Nazi Party was openly professed in the oral propaganda of the Nazi agitators, and even in the written documents of the Party it was only thinly veiled. As justification, Nazi propaganda used to refer to a hypothetical Communist putsch for which these emergency measures ostensibly were prepared.[2]

1. NSZ Rheinfront (Mannheim National Socialist newspaper) quoted in a decision of the Fourth Criminal Division of the German Supreme Court of 30 September 1931, Die Justiz, Vol. 7, 1931-32, p. 159.
2. The argument and its history have been discussed in Wolfgang Heine, "Staatsgerichtshof und Reichsgericht über das hessische Manifest," Die Justiz, 1931-32, p. 154.

Immediately following the Nazis' seizure of power, the campaign of terror against their political enemies began. Its first object was the Communist Party. In the official declaration of the incoming government the victory over the "Communistic decomposition of Germany" had been called "the decisive act for the rebirth of Germany."[1] The Communist Party was deprived of the right to hold meetings, and its headquarters in Berlin were occupied by the police. An official report was put out indicating that a search of the headquarters had produced material proving the imminence of a Communist revolt.

The police were promptly reorganized with a view to making them a reliable instrument for terroristic activities. The truncheon was replaced by heavy arms. Scores of SA and SS men were recruited, and old "unreliable" police officials were dismissed. The police were ordered to establish the friendliest relations with SA, SS, and the Stahlhelm organization of veterans of the first World War. At the same time the most vigorous measures were ordered against the Communists. A circular by Hermann Goering to all police authorities on 17 February 1933 stated:[2] "Hostile attitudes toward persecution of SA, SS, Stahlhelm, and of nationalist parties must be avoided. I expect all police authorities to establish the best relations with these organizations, which contain the most important elements for the reconstruction of the state. In addition, every activity for national purposes and

1. The text of this declaration has been reprinted in Gerd Rüble, Das Dritte Reich, Dokumentarische Darstellung des Aufbaues der Nation, 1934, Vol. I, 29 (hereafter quoted as Rüble).
2. The German original of this order is given in Appendix I

nationalist propaganda should be vigorously supported. Only in the most urgent cases may police restrictions be applied to their activities....The most stringent measures are to be used against Communist terror acts. Police officials who in the exercise of their duty make use of their firearms will be protected by me without regard to the consequences of their use. Every official should always keep in mind that the omission of a measure will weigh much more heavily against him than faults committed in the exercise of his duty."

The same attitude characterizes the address made by the new Berlin police president, Admiral von Levetzow, to officers of the Schutzpolizei. "We do not forget the great services of the National Socialist Party, of its valiant SA and SS. . . and thus I ask every one of you, please, do see in them your loyal allies, your most trustworthy helpers for the suppression of revolts and riots."[1] This order to treat the National Socialist and nationalist organizations as the favorite sons of the police seemingly did not go far enough, for within a short time the SA, SS, and Stahlhelm were, first in Prussia, and later in the other states, elevated to the rank of auxiliary police.[2] This measure allowed the SA and SS to assault and intimidate their political enemies under the cover of legality. Persons suspected of wavering politically were to be impressed by the official coordination of the Nazis' private army and its close cooperation with the state police.

1. Quoted from daily Berlin supplement of the Völkischer Beobachter of 24 February 1933.
2. Prussian decree of 22 February 1933. See Rüble, p. 45, and Hans Volz, Daten der Geschichte der NSDAP, 9th edition, 1939, p. 50.

A few days after the SA and SS had been elevated to the rank of auxiliary police the Reichstag fire broke out (27 February 1933). The fire, which was immediately attributed to the Communists and Socialists, served as a pretext to start a wave of systematic prosecutions of political enemies. The arrest of 4,000 Communist Party functionaries and the closing down of the Communist and Socialist press was ordered.[1]

A pseudo-legal basis for some of these measures was found in an emergency decree of the President "for the protection of the German people" of 4 February 1933,[2] issued at the instigation and pressure of the National Socialist members of the cabinet. This decree gave the police wide powers to prohibit and control political meetings and, in reduced degree, to seize newspapers as well as to forbid their appearance for a period of four weeks. The pretext that Marinus van der Lubbe, the presumptive arsonist, had supposedly confessed to being associated with the Social Democratic Party was used to close down Social Democratic newspapers.[3] Even Center Party newspapers did not escape the same fate, although measures taken against them were mitigated somewhat after some petitioning by high-placed Catholic political figures.[4]

These exceptional measures taken against the Communist, the Social Democratic, and to a lesser degree the Center Party were not related to any emergency, but were part of a carefully laid plan to stamp out opposition, particularly left-wing movements, as quickly as possible, and especially to eliminate the possibility of their

1. Hermann Goering, Aufbau einer Nation, Berlin, 1934, p. 92.
2. RGBl. I, 35.
3. A partial list of newspapers seized or closed down by police order during the fortnight preceding Reichstag fire may be found in Appendix II
4. See official account in Rüble, p. 46.

putting up a fight of any consequence in the national elections of 5 March. The terror served also to show the German people that the left wing parties, although still formally appearing on the election lists, were doomed. Insofar as the Communists were concerned, this fact was made officially clear before the election. Thus, for instance, Goering in a broadcast on 1 March declared: "We not only want to defend ourselves against the Communist danger, but it is our most important task to vanquish Communism and to extirpate it from Germany."[1]

The political terror exercised under the shield of state authority by National Socialist organizations was, however, by no means restricted to the extreme left. It was also extended to the Center Party, especially in those regions where this party had a large following in working-class circles. This fact may be seen from the message of protest sent to Goering by the chairman of the Center Party in Drefeld: "The Center Party Krefeld had been assembled in a closed Party meeting in the town hall. The meeting was broken up by the National Socialists according to plans made in advance. A National Socialist contingent, part of which had gained admission by false tickets, and part of which had forced their way into the hall, threw a bomb at the speakers' platform. One of the contingent struck Stegerwald with the butt of a revolver."[2]

To a certain extent this policy of terrorism had been legalized by the decree of the Reich President "for the protection of the people and state," issued immediately after the Reichstag fire.[3]

1. Fritz Poetzsch-Heffter, "Vom Deutschen Staatsleben" in Jahrbuch des Offentlichen Rechts, (1935) Vol. 22 p. 15. (hereafter cited as Poetzsch).
2. Quoted in Frankfurter Zeitung, 23 February 1933.
3. RGBl, I, 83.

The decree had suspended the most important fundamental rights guaranteed by the Weimar constitution. It allowed, among other things, search, seizure, and arrest without any legal limitations. In addition, paragraph 2 gave the Reich government the right to take over the functions of those state governments which would not comply with the orders issued by the Reich Government. It thus gave the National Socialist government additional legal weapons to force into line recalcitrant state governments which were loathe to carry through the policy of terror.

With all legal hurdles thus cleared, the National Socialists started immediately to establish concentration camps so that the more dangerous political enemies would be safely out of the way during election week. Goering himself has admitted that from the beginning thousands of Communist and Socialist functionaries were put into these concentration camps. "Thus the concentration camps were set up, in which we had to put for the time being thousand of functionaries of the Communist and Socialist Party. It goes without saying that here and there some innocent people were hit. It goes equally without saying that beatings have occurred here and there and that acts of brutality have been committed. But measured by the past and by the magnitude of the event, the German revolution has been the least bloody and the most disciplined of all revolutions."[1]

The elections which took place on 5 March in an atmosphere of terror although without open Nazi interference-at least in the urban areas--gave the National Socialists neither a simple majority for their own Party nor together with the other nationalist parties

1. Goering, op. cit., p. 89.

the two-thirds majority necessary for contitutional changes. The parliamentary difficulties resulting from this situation were circumvented by the simple device of barring the Communists from attendance in the Reichstag. This step proved to be rather simple since those Communists who had not already gone into hiding or fled the country had been put into concentration camps before the election. This action of the government was officially legalized one week after the decisive Reichstag session in which a two-thirds majority for the passage of the Enabling Act was achieved through the exclusion of the Communists.[1]

Immediately after the Reichstag elections the Nazi Party started to take over power from the remaining non-nationalist state governments. Whenever these governments did not give way voluntarily, SA troops occupied the respective government buildings.[2]

B. The Suppression of Trade Unions, Political Parties, and other Organizations

All trade unions, whatever their political complexion, tried to reach an agreement with the Nazi government. By offering to renounce any kind of political activity they hoped to be able to continue in their trade union functions. Their position in this attempt to reach a compromise with the Nazis seemed favorable. The work councils elections, which had taken place in February and March 1933, had ended with a resounding victory for the old established unions.

1. Preliminary statute for the "Gleichschaltung" of the states with Reich, 31 March 1933, Par. 10, 1, RGBl. I, 153.
2. See, for instance, the proclamation by which General Franz von Epp took over power in Bavaria. The proclamation is reprinted in Axel Friedrichs, ed., Dokumente der Deutschen Politik, Vol. I, Die Nationalsozialistische Revolution 1933, (cited hereafter as Revolution). 1935, p. 16. Any former Bavarian official, especially Dr. Schaefer (present appointee of the Military Government for the Bavarian administration), may testify to those matters relating to the taking over of the State Government. SECRET

The representatives of the established unions had received 81.6 percent of the vote, the National Socialist lists only 11.7 percent, the Communists 4.9, and various splinter groups 1.8 percent.[1] Dismayed by the result, the Nazis suspended further elections to work councils on 4 April 1933.[2]

Meanwhile, the most important Socialist trade unions had shown their willingness to reach a compromise with the Nazis not only by renouncing any further relation with the Socialist Party, but, more positively, by publicly welcoming the proclamation of 1 May as a national holiday. They took this gesture of the Hitler government as proof of the German workers' full acceptance by the national community.

The Nazis, however, had decided not to enter into any compromise with the existing unions. As early as the beginning of April 1933 Dr. Robert Ley had been secretly appointed head of "a National Socialist committee for the protection of German labor." On 21 April[3] the directive for taking over the German General Trade Union Federation (Allgemeiner Deutscher Gewerkschaftsbund - ADGB) and of the General Free Union of Salaried Employees (Allgemeiner Freier Angestelltenbund - AFA) had been issued. These directives laid down that SA and SS men were to be employed for the seizure of the buildings as well as for the taking into custody of the

1. Gewerkschaftszeitung, 29 April 1933, p. 270.
2. RGBl. I, 161
3. Ernst Fraenkel, attorney of the Social Democratic Party now employed by Foreign Economic Administration in Washington may be helpful as a witness. For additional witnesses contact officers of re-established Social Democratic Party and Trade Unions.

presidents and regional secretaries of the organizations as well as of the branch directors of the Bank der Arbeit.[1]

The action was carried through as provided in the directive. According to an order of the Attorney General at the Berlin District Court of 12 May 1933, the assets of the trade unions were seized. By an order of the same authority of 9 May 1933 the assets of the Social Democratic newspapers, and the Defense League of the Weimar coalition forces (Reichsbanner Schwarz-Rot-Gold,[2] were also seized. Officially, the orders were issued in connection with the inquiry against the trade union leader Leipart, who was charged with embezzlement. Nothing was ever heard of this judicial investigation, and neither he nor any other prominent labor leader was ever tried for these fictitious embezzlements.

The Christian trade unions, a group of unions which had close relation with the Center Party were granted a somewhat more extended lease of life. Their representatives were even allowed to attend the June conference of the International Labor Office in Geneva so as to prove the existence of independent trade unions. Yet in spite of the appearance of the Christian trade unionists, the German delegation, led by Dr. Ley, was given a hostile reception. The usefulness of the independent Christian trade unions within the framework of the Nazi state had obviously come to an end. Therefore on 21 June 1933 the Christian trade union offices were seized by the Nationalsozialistische Betriebszellen-Organisation (NSBO) according to the pattern evolved

1. The circular No. 6/33 of 21 April 1933 of the Oberste Leitung der PO has been reprinted in W. Müller, Das Soziale Leben im Neuen Deutschland, Berlin 1938, p. 51.
2. See Appendix III for text of the order.

for the seizure of the trade unions.[1]

With the trade unions gone, the political parties remained to be taken care of. Most of them had not functioned since April. But, insofar as their legal position was concerned, only the Communist Party was outlawed. Members of the other parties still continued as members of town councils, etc. Therefore, by an order of the Prussian Ministry of the Interior of 25 June 1933, the Social Democratic Party was declared to be a party hostile to the state. Members were barred from any participation in parliaments, city councils, and other elected bodies. As noted above, the property of the organization previously had been taken over under an injunction issued by the Attorney General of the Berlin District Court of 9 May. This action was now extended to the whole territory, by an order of Göring.[2] But since he exercised jurisdiction only insofar as Prussia was concerned, his order was "regularized" by a decree of the Reich Ministry of the Interior of 7 July 1933, which also invalidated the Reichstag seats of the Democratic Party.[3]

At the same time, the middle class parties were "invited" to disband. In the case of the Center Party and the Bavarian People's Party, this invitation was effectively supported by a search of the premises of the organizations as well as by the arrest of prominent Party members. Under this dispensation, the following parties disbanded "voluntarily": German State Party (Deutsche Staatspartei) as of 28 June 1933; Center Party (Zentrum) as of 3 July 1933;

1. Müller, op. cit., p. 54.
2. This order, which appeared in Ministerialblatt für die Preussische innere Verwaltung I, 1933, S. 749/50, is reprinted in Poetzsch, p. 20.
3. Decree to Assure the Security of State Leadership, RGBl. I, 462.

Bavarian People's Party (Bayerische Volkspartei) as of 4 July 1933; German Hanoverian Party (Die Deutsch-Hannoverische Partei) as of 1 July 1933; the Christian Social People's Service (Die Reichs leitung des Christlich-Sozialen Volksdienstes) as of 1 July 1933; the German People's Party (Deutsche Volkspartei) as of 4 July 1933.[1]

The German Nationalist Party or, as it had called itself since May, the "German Nationalist Front," had been associated with National Socialists in the Reich Government since 30 January. It did not, however, fare any better. Its organization, especially the Nationalist Kampfringe, had proved themselves the most skillful and most serious opponents of the Nazi organizations. Therefore, their disappearance was mandatory from the viewpoint of the Nazi Party. In consequence, on 21 June 1933 these formations were prohibited on the basis of the decree of 28 February 1933 issued against Communist terrorists dangerous to the existence of the state. The Nationalist Front headquarters were seized and occupied by the police and SA. However, it proved difficult to disband this nationalist organization. Although Franz Seldte, the leader of the Stahlhelm and Reichs Minister of Labor, had abandoned the nationalist organizations to their fate, they were powerful enough to continue resistance for sometime before the SA with the help of the police was able to get rid of this dangerous competitor. The members of the nationalist Reichstag group were allowed to join the National Socialist Reichstag group en bloc.[2]

The final blow to competing parties was in the making, and on 14 July the prohibition and dissolution of the individual

1. Poetzsch, pp. 21-22.
2. See Revolution, I, 44; Poetzsch, p. 22.

organizations was followed by a general law forbidding the formation of new parties.[1] The funds and other assets of any kind of organization in disagreement or competing with the Nazi organizations, insofar as they had not been seized before by individual measures or orders, were seized in accordance with the law concerning the confiscation of Communist property of 26 May 1933.[2] This law was extended to embrace any organization hostile to or in competition with the National Socialists. Later on, a second law officially enlarged the basis for confiscation. This law "concerning the confiscation of funds and assets of those elements inimical to the existence of state and people" explicitly mentioned property and rights belonging to the Social Democratic Party, but also included any other property and assets used for the furtherance of Marxist or any other activities and movements endangering the security of state and people. The Reich Minister of the Interior decided on the application of the law and no legal remedy was provided against his decision.[3] According to two decrees the head of the Reich Food Estate was empowered to incorporate or to abolish various agricultural organizations.[4]

Long before these confiscatory laws were issued, however, National Socialist "commissars" had infiltrated into all kinds of cultural, social, and economic organizations, as well as into individual business concerns. Sometimes these commissars were appointed by local Nazi organizations. In many cases, the self-styled "commissars" extorted great sums from individuals and

1. RGBl. I; 479.
2. RGBl. I; 293.
3. RGBl. I, 479; and decree of 5 August 1933, RGBl I, 572.
4. Decrees of 8 Dec. 1933, RGBl. I, 1060, and 16 Feb 1934, RGBl. I, 100. See Appendix IV.

organizations by promising to protect them against more far-reaching Party demands. Eventually their activities became so obnoxious that these "commissars" whose existence had never been recognized by law had to be officially withdrawn by order of Reich Minister of Interior Frick of 6 July 1933.[1] According to the order the last "commissars" were to disappear as of 1 October 1933. The order was implemented by a circular of the Prussian Minister of Justice to the State attorneys ordering them to prosecute cases of extortion and illegal assumption of public office. However, while the decree may have granted some relief to business enterprises and individual businessmen faced with extortionate demands no such relief was in sight for the thousands of voluntary organizations and associations which were either forcibly brought into line (gleichgeschaltet) or simply shut down and their properties confiscated.

C. The Legalized Forms of Political Terror

The terroristic program of the National Socialists was put into effect through two types of agencies: (a) the legalized terror which worked through the courts and the application of National Socialist legislation; (b) the police and organizational terror which applied force and violence directly to political enemies without the intervention of legal agencies.[2]

These forms of terroristic activities were not mutually exclusive and sometimes overlapped in practice, as the following

1. Poetzsch, p. 24.
2. The question of police terror has been dealt with in a separate study. The present chapter will treat mainly with the political form.

discussion will show:

(a) Prisoners handed over to the legal authorities were often maltreated and "prepared" before they were put at the disposal of the legal authorities. Even after a prisoner had been turned over to the legal authorities, he might be "released" to the Gestapo for further interrogation when intervening circumstances made it imperative for the Gestapo to withdraw the case from the legal authorities. In many of these cases the prisoner died while being further investigated by the Gestapo.[1]

(b) Political prisoners who had served a sentence or who had been acquitted by the court were nevertheless put into concentration camps for "educational" purposes.[2] Any secret police official as well as any concentration camp officer can testify to this practice. Moreover, the concentration camp files of individual prisoners will contain material on this point. The most famous case in point was that of Martin Niemoeller.

In some instances, moreover, the "revision" of an "inadequate" court sentence was carried through by local Party organizations without going through the formality of putting the political prisoner into a concentration camp. He was either beaten or killed.

Legalized political terror was effected by means of special legislation enacted by the Nazis. The first penal sanctions against opposition groups were laid down in the decree for the protection

1. See for example the Ali Höhler and the Rall cases reported by Gisevius, von der Lubbe volume, p. 147, 151.
2. "When forwarding the dossier concerning the case to the prosecutor for the preparation of the charge in Court, the Gestapo entered a request to the effect that the prisoner was to be handed back to the Gestapo in the case of an acquittal or after he had served his sentence." PW Paper 23, OSS CID 136326.

of the German people of 4 February 1933.[1] The decree increased the maximum punishment for an attempted public incitement to acts of violence from one year to five years imprisonment. The same decree contained certain administrative restrictions on public assemblies, and determined the legal conditions required for suspending the publication of periodicals. Breaches of these regulations and prohibitions were made criminal offenses.

But the real cornerstone of the Nazi dictatorship was formed by the above mentioned decree for the "protection" of the people and the state of 28 February 1933, issued in connection with the Reichstag fire. From then on, resistance to orders issued in the interest of public security was punishable by sentence to hard labor and confiscation of property and even with capital punishment if a death occured as a result of the contravention. Moreover, the application of the death penalty for political offenses was greatly increased.[2]

At the beginning of April, profiting from the artificially-created Communist scare, the scope of the death penalty was again enlarged in the "law for the defense against acts of political terror."[3] The above-mentioned law of 14 July 1933 made punishable any attempt to form new political parties or to keep up organizational activities of old political organizations.[4] The law for the maintenance of the public peace and the legal order of 13 October 1933[5] introduced the death penalty for attempts on the life of state

1. RGBl I, 135.
2. See the special listing of laws and decrees containing the death penalty as introduced under the Third Reich.
3. Law of 4 April 1933, RGBl. I, 162.
4. RGBl. I, 479
5. RGBl. I, 723

employees and Party functionaries; it provided the same penalty for any attempt to smuggle anti-Nazi literature into Germany.

Whereas these laws and decrees were directed against any attempt to revive organizational activities directed against the new regime, the law of 20 December 1934 against surreptitious attacks upon State and Party[1] concerned itself mainly with individuals who persisted in making disrespectful remarks about the regime. It penalized slanderous utterances against the German nation, the Government, the Nazi Party, and its leading personalities. Even private malicious utterances against leading personalities were punishable if the author should have known that his words might receive publicity. The truth of the remark was no defense if the statement was liable to endanger the authority or the good name of the Government or of the Party. The law against secret radio transmitters, dated 24 November 1937,[2] made unlicensed broadcasting a crime punishable even if committed by negligence.

To these special political laws must be added the changes brought about in Sections 80-87 of the German Penal Code dealing with treason (Hochverrat). German law distinguishes between two kinds of treasonable crimes: High treason (Hochverrat), which is directed against the internal security of the state and treason (Landesverrat), which concerns the external security of the state in relation to other powers. High treason is the attempt to alter the constitution by violence. It comprises also an undertaking to sever territories from the Reich (Section 80). Even the pre-Nazi law of high treason went far in penalizing preparatory and

1. Law of 20 December 1934, RGBl. I, 1269
2. RGBl. I, 1298

conspiratory acts. To the general conception used heretofore, the Nazis added detailed provisions referring to particular crimes, namely, duress directed against the Reich President or members of the government (Section 81), the training of armed forces or the abuse of public authority (Section 82), and a number of remote acts which were preliminary to preparatory acts. Such acts were those tending to establish or maintain organized contacts for the preparation of high treason, or tending to influence the masses by publications or other means of communication, or preparatory acts committed outside Germany or by the importation of publications or other means of spreading propaganda (Section 83). The printing, distributing, or keeping for distribution of printed matter containing treasonable writings was punishable if the person committing any of these acts was in a position to realize the treasonable character of the contents after careful investigation (Section 85). All cases of treasonable undertakings and conspiracies, and the particular preparatory acts mentioned above, were made capital offenses. The Nazis further introduced fines without a statutory maximum and replaced the seizure of property belonging to principals and ringleaders by outright confiscation of their property.

These laws and decrees formed the main legal tools with which the legalized terror operated until the beginning of the war. After the war began new penal legislation was introduced. One of the new decrees dealt with "extraordinary measures in the field of broadcasting" and subjected to severe punishment listening to foreign broadcasts.[1]

1. Decree of 1 September 1939, RGBl, 1683

Of great significance was the decree on "special wartime crimes" which, interestingly enough, bore the date of 17 August 1938, but which was published only after the beginning of the war in September 1932.[1] Under paragraph 5, it ordered the death penalty for whoever publicly tries to "undermine the will to resist of the German people or their allies." The loose wording of this section covered almost any form of political resistance and thus became the cornerstone for political prosecutions during the war. There were also numerous other penal laws which by their loose wording could be utilized against any form of political opposition. These laws are not specifically discussed here, but are included in the list below, inasmuch as they make the death penalty either mandatory or permissive.

The following compilation covers the crimes made punishable by death under the pre-Nazi regime and those to which the death penalty was made applicable under Nazi law. In contrast to the three crimes punishable by death before 1933, there appear no less then forty-four under Nazi laws.

A. Crimes Punishable by the Death Penalty under pre-Nazi Laws

1. Murder (Penal Code, Section 211);
2. Homicide through the use of explosives (Section 5, Law against the Criminal and Dangerous Use of Explosives of 9 June 1884 -- Gesetz von 9 June 1884 gegen den verbrecherischen und gemeingefaehrlichen Gebrauch von Sprengstoffen RGBl. 61);
3. Slave-raiding, involving the loss of human lives (Section 1, Law on the Punishment of Slave Raiders, of July 1895 -- Gesetz zur Bestrafung des Sklavenraubes).

1. RGBl I, 1455.

B. Crimes Punishable by the death penalty under Nazi laws

1. High treason (Penal Code, Section 80;
2. High treason by means of coercion (Section 81);
3. Conspiracy to commit high treason (Section 82);
4. Certain acts preparatory to committing high treason (Section 85);
5. Undertaking to kill the Reich President (Section 5, no. 1; Presidential decree for the Protection of People and State, of 28 February 1933 - Verordnung des Reichspräsidenten zum Schutz von Volk und Staat, RGBl. I, 83);
6. Armed riots (Section 5, no. 2, ibid.);
7. Deprivation of liberty for the purpose of taking hostages in political strife (Section 5, no. 3, ibid.);
8. Causing the death of a person by violating certain executive security regulations (Section 4, ibid.);
9. Terrorizing the populace by committing offenses while wearing a Nazi uniform (Section 3, Law against Vicious Attacks Directed against State and Party and for the Protection of Party Uniforms, of 20 December 1934 -- Gesetz gegen heimtückische Angriffe auf Staat und Partei und zum Schutz der Parteiuniformen;(RGBL. I, 1269).
10. Posing as a member of the police or of the Armed Forces while committing a crime (Section 1, decree on the Extension of Criminal Protection against False Assumption of Public Authority, of 9 April 1942 -- Verordnung zur Erweiterung und Verschärfung

des strafrechtlichen Schutzes gegen Amtsanmassung (RGBl. I, 174);

11. Causing danger to life and property by the use of explosives; (Section 1, no. 1, Law for the Defense against acts of Political Terror, of 4 April 1933 -- Gesetz zur Abwehr politischer Gewelttaten, (RGBl. 162).
12. Arson or explosion of a public buildi ng in order to intimidate the populace (Section 1, no. 2, ibid);
13. Causing a public danger by the use of poison, or by inundation (Section 1, no. 3, ibid);
14. Spreading news from foreign broadcasts (Section 2, decree on Extraordinary Measures concerning Broadcasting, of 1 September 1939 -- Verordnung über ausserordentliche Rundfunkmassnahmen RGBl. I, 1683);
15. Undertaking to betray state secrets (Section 89);
16. Undertaking to obtain state secrets with the intent to betray (Section 90);
17. Disloyal conduct of diplomatic affairs (Section 90g);
    a. Contacting a foreign government with intent to seriously injure the Reich (Section 91, I)
    b. Contacting a foreign government with intent seriously to injure a Reich National (Section 91, II)
18. Serving with enemy forces during time of war (Section 91a);
19. Aiding and abetting the enemy (Section 91b);
20. Causing a grave danger to German reputation by untrue statements (Section 90f, II);

21. Espionage (Section 2, decree of Special Wartime Criminal Law, of 17 August 1938 -- Kriegssonderstrafrechtsverordnung RGBl., 1939, I, 1455, 2131);
22. Illegal guerrilla warfare (Section 3, ibid.);
23. Undermining of military strength by incitement to disobedience (or) desertion, or by self-mutilation, and certain other means (Section 5, ibid);
24. Any offense, intentional or negligent, involving a serious danger or disadvantage to the war effort or to the security of the Reich, whenever "the sound instincts of the people" indicate that the regular penalty would not be a sufficient retribution for the act committed (Section 5a, ibid., as amended by the Fifth decree to supplement the decree on Special Wartime Criminal Law, of 5 May 1944 -- Fünfte Verordnung zur Ergänzung der Kriegssonderstrafrechtsverordnung, RGBl. I, 115).;
25. Persistent acts of injuring the vitality of the German people through abortion (Section 218);
26. Serious cases of failure to report certain impending capital crimes (Section 139 II);
27. Sabotage of military equipment, defense installations, or pertinent raw materials (Section 143a);
28. Sabotage of vital supply plants (Section 2, decree on the Protection of the War Potential of the German People, of 25 November 1939 -- Verordnung zur Erganzung der Strafvorschriften zum Schutz der

Wehrkraft des deutschen Volkes, RGBl. I, 2319);

29. The offense committed by a German national of transferring to, or holding in, another country any private property to the detriment of the German economy (Law against Economic Sabotage, of 1 December 1936 -- Gesetz gegen Wirtschaftssabotage RGBl. I, 999);

30. Setting roadblocks with intent to rob (Law against Highway-robbery through Use of Roadblocks, of 22 June 1938 -- Gesetz gegen Strassenraub mittels Autofallen, RGBl. I, 651);

31. Kidnaping of children with the intent of extortion (Section 239a);

32. Intentionally endangering rail, water, or air transportation (Section 315);

33. Destruction, concealment, or retention of necessary raw materials or products, or concealment or falsification of pertinent coupons and certificates (Section 1, Ordinance on War Economy, of 4 September 1939 -- Kriegswirtsschaftsverordnung, RGBl. I, 1609; and of 25 March 1942, RGBl. I, 147);

34. Misappropriation of objects gathered through the public metal collection (Ordinance on the Protection of the Metal Collection of 29 March 1940 -- Verordnung zum Schutz der Metallsammlungs, RGBl. I, 565);

35. Misappropriation of objects gathered in the collection of winter garments (Ordinance of the Führer on the

Protection of Collection of Winter Garments for the Front, of 23 December 1941 -- Verordnung des Führers zum Schutz der Sammlung von Wintersachen für die Front, RGBl. I, 797);

36. Making untrue statements about the demand or amount of labor or raw materials, products, machines, and tools in the armament industry (Decree of the Führer on the Protection of the Armament Industry, of 21 March 1942 -- Verordnung des Fuhrers zum Schutz der Rüstungswirtschaft, RGBl. I, 165);

37. Looting in evacuated districts (Section 1, Decree against Enemies of the People, of 5 September 1939 -- Verordnung gegen Volksschädlinge, RGBl. I, 1679);

38. Any offense against life, limb or property (not a contravention) committed while taking advantage of air-raid precautions (Section 2, ibid);

39. Endangering national resistance by committing arson or other crimes which create dangers to the public (Section 3, ibid.);

40. Any criminal offense committed with intention of taking advantage of the exceptional conditions due to the war, provided the "sound instincts of the people" require the death penalty in view of the viciousness of the offense (Section 4, ibid.);

41. Any use of arms or of similarly dangerous instruments while committing rape, robbery, or any other act of serious violence, or threatening a person's life or limb with such weapons, or attacking or repelling

pursuers with such weapons after committing a crime (Section 1, decree against Violent Criminals, of 5 December 1939 -- Verordnung gegen Gewaltverbrecher, RGBl. I, 2378);

42. A third offense committed by a person regarded as a dangerous habitual criminal, provided the death of the offender is necessary for the protection of the national community or for the sake of a just retribution (Section 1, Law on changes of the Criminal Code, of 4 September 1941 -- Gesetz zur Änderung des Strefgesetzbuchs, RGBl. I, 549);

43. Any further sex offense committed by a person previously sentenced for indecent assault by duress or against children or for rape (Sections 176-178), provided the death of the offender is necessary for the protection of the national community or for the sake of a just retribution (Section 1, ibid);

44. Violation, either intentionally or by negligence, of orders issued by certain executive agencies, concerning the organization of total war, provided the violation caused a severe disadvantage or a serious danger to either the conduct of the war or the security of the Reich (Ordinance for Securing a Total War Effort, of 25 August 1944 -- Verordnung zur Sicherung des totalen Kriegseinsatzes, RGBl. I, 184);

In order to understand fully the scope of these new provisions, two other changes in the German criminal law must be taken into account:

1. Attempt, incitement, volunteering, conspiracy, and participation as an accessory were liable to the same penalty as the commission of the consummated offense.
2. Juveniles between the ages of 14 and 18 were no longer exempt from capital punishment.

Of equal importance with the building up of penal legislation giving the National Socialists the legal weapons to suppress their enemies was the Nazis' policy of denying and depriving the victims of the regime's terrorism of any legal protection. This policy of non-intervention was carried through on the legislative as well as the administrative levels. On the legislative level there were a number of amnesty laws which barred the courts and prosecuting authorities from taking cognizance of any criminal acts committed by "overzealous adherents of the Nazi Party."[1] On the administrative level this policy meant that the Ministry of Justice was completely disinterested in having the prosecuting authorities follow up the numerous crimes committed by the Nazi organizations. It also meant that the Ministry disregarded reports on atrocities committed by those organizations and gave neither encouragement nor orders to start official inquiries.

In addition, the right of terminating pending legal procedures by fiat of the sovereign (right of Abolition or Niederschlagungsrecht was misused to cover up intended or already executed murders by Nazis. If some Nazi authorities prepared a murder, they made such

1. Details are given in Part 1, of this paper. Insofar as the 3 July 1934 law is concerned see "Hermann Goering as a War Criminal" R & A No. 3152.

murders "legal" by using blanks signed by Hitler or Goering, and renouncing the State's right to order inquiry and to bring the culprit to trial.[1]

D. The Responsibility of Various Agencies

The basic legal and administrative patterns of oppression were worked out in theory and practice by a number of top German agencies. Any differences in policies thus elaborated in these various Reich agencies were afterwards ironed out by the Reich Chancellery headed by Reich Minister Heinrich Lammers. After the outbreak of war, this task was carried out by the Ministerial Council for the defense of the Reich, of which Lammers in his position as head of the Reich Chancellery was the secretary.[2]

The main ministries and other high authorities involved in these procedures included the following:

1. The Ministry of Justice

This Ministry was responsible for the framing of legislation. Even if a piece of legislation originated in another ministry, the Ministry of Justice participated in the elaboration of the new legislation, particularly if it was criminal legislation.

At the same time, the Ministry assumed the highest administrative responsibility in the field of the administration of criminal justice, for it could order the state attorneys either to prosecute or not to prosecute specified cases. The

1. As regards this procedure see Gisevius; van der Lubbe volume p. 144. Gisevius was an official of the German Consulate in Geneva and former official of Reich Ministry of Interior (to be reached through OSS Bern.) He may testify to the use of the murder blanks.
2. See Lammers' deposition: Seventh Army Interrogation Center, US Army, APO 358, Ref. No. SZIC/32, 29 May 1945.

responsibility for never having ordered any inquiry into the countless political murders committed by the National Socialist regime rests entirely with this Ministry.

From 1933 to January 1941 the Ministry was headed by Dr. Franz Gürtner. After his death in 1941, the ministry was provisionally headed by the Secretary of State, Franz Schlegelberger. In 1943 Georg Thierack, the former president of the People's Court, was appointed Minister and remained in office until the end of the regime. The two Secretaries of State in the Ministry were Dr. Roland Freisler and Schlegelberger. After Freisler's appointment as head of of the People's Court, H. Klemm was appointed Secretary of State. The sections of the Ministry most responsible for the framing and execution of the terroristic policies were the section on Criminal Legislation, headed by E. Schäfer, and the section on Criminal Prosecution, Criminal Procedure, and Prisons, headed by Dr. Vollmer.

2. The Ministry of Interior

The Ministry of Interior was chiefly instrumental in the elaboration of political legislation properly so-called. It was chiefly responsible for the issuance of the emergency decree of 28 February 1933 and of the enabling act of 24 March 1933, by which Nazi rule was substituted for the legislative process as provided by the Weimar Constitution. It was equally responsible for all legislative as well as administrative measures aiming at the suppression of independent and social organizations and the confiscation of their assets.

The Ministry of Interior was headed by Dr. Wilhelm Frick up to 1943, then by Heinrich Himmler. The Secretaries of State were Dr. Hans Pfundtner and Dr. Wilhelm Stuckart; after 1943 Dr. Stuckart served alone. The head of the Section for Constitution and Legislation responsible for the working out of terroristic legislation was Dr. Werner Hoche.

3. The Highest Party Authorities

The Party authorities were not supposed to bring pressure to bear upon those officials and agencies entrusted with the administration of criminal justice. This principle, however, was never seriously adhered to, as can be seen from the repeated attempts to enforce some measure of orderly procedure upon Party personnel so far as such interventions into the course of justice were concerned. The following extract from an order of the Party Chancellery of 19 October 1944 may be taken as evidence:

"According to paragraph 3 of the circular of 2 December 1942 (Reichsverfugungsblatt, Ausgabe A, Folge 50/42) direct interventions in pending judicial procedures are not allowed. The opinion sometimes advanced that this circular concerns itself with civil law cases only is incorrect. The principle that all Party officers have to refrain from an illicit and inadmissible pressure on judicial proceedings also extends to criminal trials.

"If a Party office deems it imperative to make the court familiar with the political position of the Party concerning an individual criminal case, the Party Chancellery has to be informed, so as to take the necessary steps with the Reich

Minister of Justice. Direct negotiations with the courts are not admissible."[1]

The responsibility for participation in acts of judicial terrorism on the higher level rested therefore with the Party Chancellery. This fact, however, does not exclude the possibility that individual Party organizations exercised pressure on the respective district attorneys' offices and the local courts in order to effect their terroristic aims.

4. The Courts

While the agencies mentioned above were responsible for the framing of legislative policies, it was the courts having jurisdiction over political crimes which gave administrative directives, exercised political pressure in general, and assumed direct responsibilities for carrying through the legalized terrorism. The most important courts involved were the following:

a. The People's Court and the Supreme Reich Attorney at the Court.

The People's Court was established in June 1934[2] to handle cases of high treason. The jurisdiction of the People's Court was extended several times and at the end of the regime was almost all-embracing. The different sections of the court travelled throughout the country, each one composed of two professional judges and three members appointed by Hitler from the

1. The order 332/44 is printed in Reichsverfügungsblatt published by the Party Chancellery of the NS Party, edition C, Munich, 19 October 1944.
2. Law of 24 April 1934, RGBl. I, 341.

SS and Party ranks "on account of their special knowledge of defense against subversive activities, or because they are intimately connected with the political trend of the nation."[1]

Up to 1943, the President of the People's Court was Dr. Georg Thierack, who became the last Nazi Minister of Justice. Roland Freisler then succeeded to the Court Presidency. Supreme Attorney General of the People's Court was Lautz.

b. The Appeal Courts and the Attorney General at the Courts.

The Appeal Courts handled only minor treason cases transferred to their jurisdiction by the Supreme Reich Attorney General of the People's Court.

c. The Special Courts.

After 1933 political cases, insofar as they were not handled by the People's Court, were handled by the Special Courts set up at the various district courts.[2] In the earlier period of the regime, these courts were especially active in convicting members of left-wing parties who had tried to keep contacts with members of their former organizations.

1. The activities of the People's Court have been described in PW interrogations 4208, 4373, 4419 by a judge of the Würzburg district court who was a member of the Supreme Reich Attorney's Staff at the People's Court until 1944.
2. See decree of 21 March and 6 May 1933 RGBl I, 136, 259.

d. The Hauptamt-SS Tribunal in München-Starnberg as well as the SS Courts.

The lower SS courts handled political cases insofar as they concerned members of the Higher SS staffs, of the SS Troops for Special Tasks (SS-Verfügungstruppe), of the SS Deaths-head Formations (SS-Totenkopfverbände)[1] and of the police forces for special operation.

e. The Military Courts.

The Supreme Military Tribunal (Reichskriegsgericht), the Military Courts of Appeal, and the Lower Military Court handled political cases involving members of the Armed Forces. According to reports emanating from French sources, the members of the Supreme Military Tribunal showed supreme disregard of the most elementary rights of the defendants, in cases of Germans as well as foreigners, who were tried before that court.[2]

In 1944 many of the functions of the military courts were transferred to an Army Central Court (Zentralgericht des Heeres) sitting in Berlin This Army Central Court took cognizance of all political offenses committed by members of the Armed Forces,[3] insofar as the People's Court did not take jurisdiction.

1. Decree of 17 October 1939 and Executive Decree of 1 November 1939; RGBl, I, 2107, 2293; and Decree of 17 April 1940, RGBl, I, 659.
2. CID XL 9277 and 9278 contain a report of 29 April 1945 on the functioning of the Supreme Military Tribunal. The President of the Supreme Military Tribunal was Admiral Bastian, and in the last months General Von Scheele; the Chief Prosecuting Attorney was Colonel Kraell; the Presidents of the different sections were General Barwinski, General Rischer, General Ernst, General Neumann, Admiral Harpst, General Hoffmann, and General Schmautzer.
3. Allgemeine Heeresmittailungen No. 326/44, issued 21 June 1944.

E. The Problem of Statistics and Records

No statistical information is available to OSS at this time which would give an adequate picture of the results of political terror in Germany between 1933 and 1945. No complete list of persons murdered for political reasons is presently available; nor is there available any complete record of the number of persons kept in concentration camps or otherwise mistreated by the Nazis. Notwithstanding the lack of full statistical data, it is possible to differentiate among a number of categories of political murder committed by Nazi agencies, organizations, or individual Nazis and to present pertinent cases under each heading. It may also be recognized that in the majority of instances the murders were carried through "administratively", but in some cases political murders were carried through by more or less formalized proceedings before the courts. The categories of political murders are the following:

a. Political opponents[1]

1) Communists (Thälmann)
2) Social Democrats (Hilferding)
3) Trade Unionists (L. Erdmann)
4) Other Leftists (H. Litten)
5) Nationalists (Oberfohren)
6) Military Leaders (Von Witzleben)

b. Members of Religious Opposition Groups

1) Catholics
2) Protestants
3) Sects

1. A selected list of people murdered for political reasons may be found in Appendix V.

c. Jews and Gypsies

d. Persons killed out of personal revenge (Von Kahr)

e. Persons killed on account of special knowledge of facts which had to be kept secret in the interests of National Socialists (Rall)

f. Persons killed as a result of mistaken identity (Willi Schmidt)

Such statistical records as are available will be found in one of several places. The nature of these sources and their respective value are examined briefly in the following pages.

I. Judicial Records

German criminal statistics have been published up to the year 1939. These statistics do not, however, cover the work of the People's Court, in which a steadily increasing number of political crimes were handled, nor do they include the cases coming before SS and Police Courts and Military Courts.

These statistics have been published in abbreviated form up to 1940 in Wirtschaft und Statistik. The full results are regularly published in Kriminalstatistik, which forms part of the Statistik des deutschen Reichs; the largest criminal statistics are those for 1933 and 1934 which appear in the Statistik des deutschen Reichs, volumes 478 and 507. But these statistics are not very revealing due to the shifts in the system of repression, the adding of numerous new criminal offenses and the virtual disappearance of some old ones, and the absence of figures for the activities of the People's Court. It was pointed out above that the Nazi

law provided the death penalty for a great variety of crimes. How many persons suffered this penalty is suggested by an article published by Georg Thierack, Minister of Justice, on 23 August 1944, in which are given the figures for the growth of the number of death sentences during the 1940-43 period. These figures seem to include death sentences handed down by all courts coming under the jurisdiction of the Ministry of Justice (including the People's Court, but not the Military and SS Courts):

Year	Number of Death Sentences
1940	926
1941	1,292
1942	3,660
1943	5,336

A breakdown of the death sentences handed down in 1943 is drawn in the following table:[1]

Crimes	Number Sentenced
High treason	1,747
Crimes against the broadcasting laws	11
Undermining the people's will to resistance	108
Crimes against the occupying power	282
Sabotage and insubordination by foreign workers	138
Retention of arms by citizens of the Protectorate	39
Retention of arms by Poles	2
Sabotage in the Protectorate	66
Murder, attempted murder, and violent crimes	250
Refusal to help air raid victims	3
Arson	35
Dangerous habitual criminals (theft, fraud, taking advantage of the blackout and of war-time conditions)	938
Thefts from the railways	122

1. These figures were published in the Reich Ministry of Propaganda publication, Die Lage, 23 August 1944, and are taken from News Digest, 21 April 1945, #1740.

Crimes (contd.)	Number Sentenced (contd.)
Thefts of field post parcels	136
Abortion	1
Looting in bomb-damaged houses	182
Crimes against the war economy	236
Sexual crimes	114
Embezzlement of NSV funds intended for bomb victims	2
Defrauding soldiers on front service	2
Desertion	19
Crimes against the decree for the protection of the Winterhilfwork	3
Rassenschande ("race pollution")	4
Other crimes	6
Death sentences from the occupied eastern territories	894
Total	5,336

Of the 5,336 death sentences reported for 1943, 1,747 concerned political offenses of German citizens, 527 political offenses of foreign nationals. A certain number, however, of the remaining 2,943 death sentences probably involved cases with a definite political complexion.

II. Police Records

No police records were published showing the number of arrests made by the different branches of the police and the ultimate disposal of these cases. However, such records exist for internal consumption and some of these records concerning the first half of the year 1944 are known. They concern the number of arrests reported to the various Staatspolizeileitstellen, as the following table shows:

Total Number of Arrests Reported by Staatspolizeileitstellen[1]

January - June 1944

	January 1944 Total[a]	February 1944 Total[a]	March 1944 Total[a]	April 1944 Total[a]	Number of foreigners
Communism, Marxism	1;340	1;877	1;283	1,387	906
Reaction, Opposition	2;079	2;154	2;322	529	235
Resistance Movement	2,128	2,470	2,371	1,781	1,288
Catholic)	27	54	76	71	42
Evangelical)Church	7	12	9	5	--
Sects)Movement	118	178	68	147	49
Jewish Matters	1,711	436	402	453	137
Treachery	-----	-----	-----	1,665	628

	May 1944 Total	Number of Foreigners	June 1944 Total	Number of Foreigners
Communism, Marxism	2,188	1,558	1,478	865
Reaction, Opposition	567	246	723	324
Catholic)	41	17	37	17
Evangelical)Church	6	1	7	--
Sects)Movement	63	9	78	27
Resistance Movement	3,166	2,494	3,593	3,021
Jewish Matters	331	92	533	148
Treachery	1,913	709	2,498	913

III. Concentration Camp Records

Files and statistics concerning each case of internment in a concentration camp were kept in the Central Registry of the central Gestapo Office (which was part of the Reich Main Security Office). In each case of an internment order, the original of the order, made in the Gestapo Office, was sent to the respective camp commander, while the office retained a copy. Thus in addition to the files in the central Gestapo Office, files concerning each camp inmate should also be found in the various concentration camps concerned. An

1. OSS, CID #129731S
a. No breakdown into foreigners and native Germans is given for January - April.

exception to this rule is the case of the mass deportation, internment, and extermination of Jews. In these cases, no records were kept about the individual persons in the central agency, nor were those registered who were killed immediately upon arrival in an extermination camp.

IV. Party Records

It is not to be expected that any records are in existence relating to arrests, detention, and murders carried through by organizations and individuals belonging to the NS Party as distinct from State authorities.

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OFFICE OF STRATEGIC SERVICES

Research and Analysis Branch

APPENDICES TO

R & A No. 3114.2

NAZI PLANS FOR DOMINATING GERMANY AND EUROPE

DOMESTIC CRIMES

Draft for the Use of the War Crimes Staff

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REFERENCE DIVISION
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APPENDIX I

Runderlass by Goering, 17 February 1933
Reprinted in Völkischer Beobachter (Berlin Edition) 21 February 1933

Ich glaube, mir einen besonderen Hinweis darauf ersparen zu Können, dass die Polizei auch nur den Anschein einer feindseligen Haltung oder gar den Eindruck einer Verfolgung gegenüber Nationalen Verbänden (SA, SS und Stahlhelm) und Nationalen Parteien unter allen Umstanden zu vermeiden hat, Ich erwarte vielmehr von sämtlichen Polizeibehörden, dass sie zu den genannten Organisationen, in deren Kreisen die wichtigsten der staatsaufbauenden Kräfte enthalten sind, das beste Einvernehnen herstellen und unterhalten. Darüber hinaus ist jede Betätigung für nationale Zwecke und die Nationale Propaganda mit allen Kraften zu unterstützen.

Von polizeilichen Beschränkungen und Auflagen darf insoweit nur in dringendsten Fällen Gebrauch gemacht werden,

Dafür ist den Treiben staatsfeindlicher Organisationen mit den scharfsten Mitteln entgegenzutreten. Gegen Kommunistische Terrorakte und Überfälle ist mit aller Strenge vorzugehen und, wenn nötig, rücksichtlos von der Waffe Gebrauch machende Beamte werden ohne Rücksicht auf die Folgen des Schusswaffengebrauchs von mir gedeckt; wer hingegen in falscher Rücksicht-nahme versagt, hat dienststrafrechtliche Folgen zu gewärtigen.

Der Schutz der immer wieder in ihrer Betätigung eingeengten Nationalen Bevölkerung erfordert die schärfste Handhabung der gesetzlichen Bestimmungen gegen verbotene Demonstrationen, unerlaubte Versammlungen, Plünderungen, Aufforderung zum Hoch-und Landesverrat, Massentreik, Aufruhr, Pressedelikte und das sonstige

strafbare Treiben der Ordnungsstörer.

Jeder Beamte hat sich stets vor Augen zu halten, dass die Unterlassung einer Massnahme schwerer wiegt als begangene Fehler in der Ausübung. Ich erwarte und hoffe, dass allo Beamten sich mit mir eins fühlen in dem Ziel, durch die Stärkung und Zusammenfassung aller nationalen Kräfte unser Vaterland vor dem drohenden Verfall zu retten.

APPENDIX II

Newspapers Seized or Forbidden to appear by the Nazis, February 1933[1].

Name	Political Affiliation
Singener Beobachter	Communist Party
Volksblatt (Messkirchen, Rhineland	Socialist Party
Volkszeitung (Görlitz, Silesia)	" "
Tribüne (Erfurt)	" "
Märkische Volksstimme (Kottbus)	" "
Sozialistische Arbeiterzeitung (Breslau)	" "
Das Signal (Hanover)	" "
Münchener Neueste Nachrichten	Democratic
Alarm (Berlin)	
Volksfreund (Frankfurt a. O.)	Socialist Party
Neumarkische Volksblatt (Landsberg a.Warthe)	" "
Ostpreussisches Volksecho	Communist Party
Thuringer Volksblatt (Erfurt)	Communist Party
Der Grundstein	Trade Union
Die Rote Post	Communist Party
Unsere Zeit	
Volkswille (Hanover)	Socialist Party
Reichsbannerzeitung	" "
Dortmunder Generalanzeiger	Democratic Party

1. Inprecorr, vol. 13 (1), January-March 1933, p. 737 ff.

APPENDIX III

Covering Letter and Text of Order of Seizure of Assets of Social Democratic Party.

Herrn

Rechtsanwalt Dr. Ernst Fraenkel

Bln. - Tempelhof

Thuringerring 50

1. Anlage.

In der Strafsache 1 pol.J.1826.33 gegen Leipart und Genossen wegen Untreue übersende ich Ihnen in der Anlage eine Abschrift meiner Verfugung vom 9. Mai 1933.

In Auftrage

Oberstaatsanwalt

1 pol. J.1826.33 Beglaubigte Abschrift.

Verfugung!.

1.) -2.) pp.

3.) In dem Ermittlungsverfahren gegen Leipart und Genossen, betreffend Korruption bei den freien Gewerkschaften wird auf Grund des 1 der Verordnung des Reichspräsidenten zum Schutze von Volk und Staat vom 28 Februar 1933 das Vermögen der sozialdemokratischen Partei Deutschlands, der sozialdemokratischen Zeitungen und des Reichsbanners Schwarz-Rot-Gold beschlagnahmt.

4.) -5.) pp.

Berlin, den 9. Mai 1933.
Der Generalstaatsanwalt
bei dem Landgericht I
gez.: Dr. Burchardi.

Fur die Richtigkeit der Abschrift

Justizangestellte.

APPENDIX IV

A Partial List of Organizations whose property has been confiscated under the Terms of the Law for the confiscation of Property of Groups Hostile to the State and the People, Gesetz über die Einziehung Staats und Volksfeindlichen Vermögens, 14 July 1933,(RGBl., 1. p. 479) and Law for the Confiscation of Communist Property, Gesetz über die Einziehung kommunistichen Vermögens, 26 May 1933 (RGBl.1 1933).

Organization	Political Affiliation	Date of Confiscation	Source
Deutschnationale Kampfringe	Nationalist	2 August 1933	Reichsanzeiger #178
Volksblatt GmbH, (Kassel)	Socialist Party	3 August 1933	Ibid #179
Hildesheimer Volksblatt, Stephan Co. GmbH.	Socialist Party	" "	" "
Weserwarte GmbH, Minden	Socialist Party	26 May 1933	Ibid #180
Verlag Mopr GmbH; Peuvag, Papier Verwertungs, AG: Neuer Deutscher Verlag; Zeitungs-Verlag; Anzeigen Expedition für die Arbeiter Presse GmbH; Kosmos Verlag GmbH; Telegrafen-Agentur Imprecor.	Communist Party	5 August 1933	Ibid #180
Hamelnschen Druckerei und Verlagsgesellschaft GmbH; Verlag Wedemeyer GmbH, Gottigen	Socialist Party	" "	Ibid #180
Ostpreussendruckerei GmbH, Königsberg	Socialist Party	7 August 1933	Ibid #182
Volksdruckerei GmbH, Köslin.	Socialist Party	7 August 1933	Ibid #182

Organization	Political Affiliation	Date of Confiscation	Source
Rhein-Main-Druck Aktiengesellschaft, Frankfurt a.Main	Left Wing Catholic	7 August 1933	Ibid #182
Arbeiterzeitung, Frankfurt a.Main	Socialist Party	7 August 1933	Ibid #182
Vereinsdruckerei GmbH, Koblenz	Socialist Party	8 August 1933	Ibid #183
Offenen Handelsgesellschaft in Firma W Pfannkuch, Magdeburg	Socialist Party	16 August 1933	Reichs-anzeiger #190
Halberstadter Tageblatt P. Weber GmbH		16 August 1933	Reichs-anzeiger #190
Gewerkschaftshaus GmbH, Hindenburg, Upper Silesia	Trade Union	16 August 1933	Reichs-anzeiger #190
Verlagsanstalt Unterweser, GmbH, Wesermunde	Socialist Party	16 August 1933	Reichs-anzeiger #190
Volksdruckerei GmbH, Stralsund	Socialist Party	17 August 1933	Reichs-anzeiger #191
Aktiengesellschaft für Bauwirtschaft, Leipzig	Trade Union	26 August 1933	
Westdeutsche Buchdruckwerkstätten AG	Socialist Party	30 August 1933	Ibid. #202
Gesellschaft der Freunde der phil. politischen Akademie, Berlin	.....	30 August 1933	Ibid
Druckerei und Verlagsanstalt Südharz Gesellschaft mbH, Nordhausen	.....	6 September 1933	Ibid #208
Volksblatt-Verlagsgesellschaft mbH, Finsterwalde	Socialist Party	15 September 1933	Ibid #216
Touristverein, "Die Naturfreunde"	Independent working class organization	22 September 1933	Ibid #222

Organization	Political Affiliation	Date of Confiscation	Source
Arbeiter Rad und Kraftfahrer-verein Solidarität, (Suhl)	Socialist Party	22 September 1933	Ibid #222
Freie Turnerschaft (Pfaffendorf).	.....	1 November 1933	Ibid #[illegible]
Arbeiter - Radfahrerverein Kath. (Hennersdorff)	Catholic	1 November 1933	Ibid #[illegible]
Bau und Erwerbsgenossenschaft für Elbing und Umgegend GmbH	Cooperative	4 November 1933	Ibid #256
Musikvereinigung "Lyra"	Communist Party	4 November 1933	Ibid #266
Konsum und Spargenossenschaft GmbH, Merseburg	Cooperative	4 November 1933	Ibid #266
Vorwärts Verlag GmbH	Socialist Party	8 November 1933	Ibid #267
Revolutionäre Gewerkschafts-opposition, Erfurt.	Communist Trade Union	23 November 1933	Ibid #277
Club Gemütlichkeit, Waltershausen	.....	14 November 1933	Ibid #287
Schlesische Spielvereinigung	.....	22 December 1933	Ibid #2, 1944
Jüdischer Arbeiter Sportklub "Jask," Frankfurt, a.m.	.....	6 January 1934	Ibid #9
Reichsarbeitsgemeinschaft der Kinderfreunde, Schleswig	Socialist Party	26 February 1934	Ibid #52
Gewerkschaftskartell	Trade Union	1 March 1934	Ibid #56

Organizations dissolved under the terms of decrees for the Temporary Organization of the Reich Food Estate; Erste Verordnung über den vorläufigen Aufbau des Reichsnährsfandes 8 December 1933 (RGBl.I, 1060) and Dritte Verordnung, 16 February 1934 (RGBl.I, 100):

Vereinigung der deutschen Christlichen Bauernvereine	Catholic
Reichsgrundbesitzerverband	Conservative
Deutsche Bauernschaft	Democratic

APPENDIX V

Name	Occupation	Political Affiliation	Probable Murder [1]	Judicial Murder	Date
Adolf Biedermann	Member of Reichstag	Social Democratic Party	x		1933
R. Breitscheid	" "	" "	x		1944
Otto Eggerstedt	" "	" "	x		1933
Ernest Heilmann	" "	" "	x		(1935 (or (1936
Dr. Rudolf Hilferding	" "	" "	x		1942
Otto Husenan	" "	" "	x		1933
Mathias Jacobs	" "	" "	x		1933
Hermann Kasten	.....	" "	x		....
Ludwig Marum	Member of Reichstag	" "	x		
Albert Schulz	.....	" "	..		....
Johannes Stelling	Member of Reichstag	" "	x		1933
Fritz Ebert, Jr.	" "	" "	x		1933
Toni Pfuelf	" "	" "	x		1933
H. Andre	City Council Hanburg	Communist Party		x	1935
Ernst Thaelmann	Member of Reichstag	" "	x		1944
Albert Kuntz	Member of Prussian Diet	" "		x	1935
John Schehr	" "	" "		x	1934
Rudolf Schwartz	" "	" "		x	1934
Erich Steinfurth	" "	" "		x	1934
Max Claus	" "	" "	x		
Hans Litten		Independent Leftists	x		1933
Erich Muhsam		" "	x		1933
Theodor Lessing		" "	x		1934
E. Fechenbach		" "	x		1933
Max Maddelena	Member of Reichstag	Communist Party	x		1935
Robert Stumm	" "	" "		x	1935
Rembte	.....	" "	x		1935
Georg Handke	.....	" "	x		1935
Helene Glatzsche (Glaatzer)	Member of Diet of Saxony	" "	x		1935
Willi Mutt	.....	" "	x		1935
Ludwig Einecke	.....	" "	x		1935

1. The number of actual suicides in this category is not ascertainable. In many instances the Nazi reports of death by "suicide" concealed cold-blooded murders of the political opposition.

SECRET

Name	Occupation	Political Affiliation	Probable Murder	Judicial Murder	Date
August Lützen	.....	Communist Party	x		1934
Eugen Schoenhaar	.....	" "	x		1934
E. Sturtz	Member of Reichstag	" "	x		1934
Albert Funk	" "	" "	x		1934
Ernst Putz	" "	" "	x		1934
Walter Schütz	" "	" "	x		1933
Albert Janka	" "	" "	x		1933
Mary Jankowsky	.....	Social Democratic Party	x		1933
Dr. Oberfohren	Member of Reichstag	German Nationalist Party (DNVP)	x		1933
Johann Lopau	.....	Social Democratic Party	x		1933
Luetgens	.....	Communist Party		x	1933
Moeller	.....	" "		x	1933
Wolff	.....	" "		x	1933
Tesch	.....	" "		x	1933
Pöck	.....	" "	x		1933
Fördinger	.....	" "	x		1933
Robert Danneberg	Member of Nationalrat Austria	Austrian Socialist	x		1942
Louise Kautsky	.....	" "	x		1941
Roman Fellers	.....	" "	x		1944
Hans Kunke	.....	" "	x		1940
O. F. Kanitz	.....	" "	x		....
Julius Weiss	.....	" "	x		1939
F. Bartl	.....	Communist Party		x	1933
Winkler	.....	" "		x	1933
Siedelmann	.....	" "		x	1933
Lange	.....	" "		x	1933
Hans	.....	" "		x	1933
Thalmann	.....	" "		x	1944
Bieser	.....	" "		x	1933
Hamacher	.....	" "		x	1933
Waeser	.....	" "		x	1933
Willms	.....	" "		x	1933
Moritz	.....	" "		x	1933
Engels	.....	" "		x	1933
Toelz	.....	" "		x	1933
Sesodry	.....	" "		x	1933
Trampenau	.....	" "		x	1933
Buechler	.....	" "		x	1933
Arnstedt	.....	" "		x	1933

SECRET

Name	Occupation	Political Affiliation	Probable Murder	Judicial Murder	Date
Masgai	.....	Communist Party		x	1933
Tibulski	.....	" "	x	x	1933
Rohlers	.....	" "		x	1933
Eggert	.....	" "		x	1933
Rieband	.....	" "		x	1933
Herr	.....	" "		x	1933
Kupertz	.....	" "		x	1933
Schmidt	.....	" "		x	1933
Fick	.....	" "		x	1933
Schidzik	.....	" "		x	1933
Reitinger	.....	" "		x	1933
Wolf	.....	" "		x	1933
Rochow	.....	" "		x	1933
Woythe	.....	" "		x	1933
Marquardt	.....	" "		x	1933
Bork	.....	" "		x	1933
Kasparik	.....	" "		x	1933
Gerber	.....	" "		x	1933
Mathis Thesen	Member of Reichstag	Communist Party		x	1933
Karl Rathey	.....	" "		x	1933
Jan Templin	.....	" "		x	1933
Harung	.....	" "	x		1933
Stenzer	Head of Communist Party, Bavaria	" "	x		1944
Richard Huetig	.....	" "		x	1933
Otto Worthe	.....	" "		x	1933
Willi Rochow	.....	" "		x	1933
Dresher	.....	" "		x	1933
Voss	.....	" "		x	1933
Richard Scheringer	.....	" "		x	1934
Johann Jasper	.....	" "		x	1935
Johannes Becker	.....	" "		x	1935
Broede	.....	" "		x	1935
Matern	.....	" "		x	1935
Fritz Kreckenbaum	.....	" "	x		1935
Knoche	.....	" "	x		1935
Christian Forkel	Printers' Union	Social Democratic Party	x		1935
Lothar Erdmann	ADGB	" "	x		1933
Karl Deubel	.....	Communist Party	x		1935
Hans Ziegler	.....	" "		x	1935
Sally Epstein	.....	" "		x	1935
Dr. Eckstein	Leader of Breslau SAP	SAP	x		1933

SECRET

Name	Occupation	Political Affiliation	Probable Murder	Judicial Murder	Date
Konrad Leuschner	Member of Hessian Diet	Social Democratic Party	x		1944
Dr. Bolz	Member of Reichstag	Center Party		x	1944
Field Marshall Erwin von Witzleben				x	(20 July) 1944
Col. Gen. Erich Hoeppner				x	" " "
Maj. Gen. Hellmuth Stieff				x	" " "
1st Lt. Albrecht von Hagen				x	" " "
Lieut. Gen. Paul von Hase				x	" " "
Lieut. Col. Robert Bernardis				x	" " "
Capt. Friedrich Karl Klausing				x	" " "
Lieut. Peter Count York von Wartenburg				x	" " "
Dr. Otto Krep; former General Consul, New York				x	" " "
Joseph Wirner, Catholic lawyer				x	" " "
Count Helldorf, Police president, Berlin				x	" " "

APPENDIX VI

List of periodicals and papers quoted with indications of where they may be obtained:

Name	Where it May be Obtained
NSZ Rheinfront	Heidelberg Univ. Library or Heidelberg Public Library
Die Justiz	Any great public library or University Library However the publication may have been put into a special section inaccessible to the public because of anti-Nazi character.
Gerd Rühle, Das Dritte Reich, Dokumentarische Darstellung des Aufbauses der Nation	Any German public library or university, as well as any library of a Nazi organization.
Berlin supplement to Völkischer Beobachter	Any institution of journalism connected with a German university or public libraries in Berlin
Hans Volz, Daten der Geschichte der NSDAP, 9th ed.	Any German public library or university library
Hermann Goering, Aufbau einer Nation	Any German public library
Reichsgesetzblatt abbreviated as RGBl.	Any library attached to a German court or a German administrative office.
Fritz Roetzsch-Heffter, Von Deutschen Staatsleben in Jahrbuch des öffentlichen Rechts	Any German university library.
Frankfurter Zeitung	Any important public library in southwestern Germany.
Gewerkschaftszeitung	International Labor Office, London.
W. Müller, Das Soziale Leben in Neuen Deutschland	Any German labor front library or public library.
Ministerialblatt für die Preussische innere Verwaltung	Any office of Prussian Landrat or Regierungspräsident

Name	Where It May Be Obtained
Gisevius volumes	Manuscript available at OSS offices, Washington, Bern.
Ps/W Interrogations	Complete set available at Military Intelligence Service, Rm 2B 677, the Pentagon, Washington. Partial set available at London OSS and Nuremberg OSS offices.
Reichsverordnungsblatt der NSDAP	Any local or regional Nazi Party office should have a complete set of copies.
Allgemeine Heeresmitteilungen	Any library attached to a German Wehrmacht outfit should have a complete set of copies.
News Digest	Available at London OWI office, OSS office, Paris, OWI or OSS offices.
OSS CID	Available through London or Washington OSS offices.